

***United States Court of Appeals
for the Second Circuit***



APPENDIX

75-7210

IN THE UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

EULA LEE BLOWERS, individually and on behalf
of all other persons similarly situated,

Plaintiff-Appellant,

PATRICIA LOUGHNEY, et al.,

Plaintiffs-Appellants,

MARY NAGEOTTE, et al.,

Plaintiffs-Appellants,

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Applicant for Intervention-Appellant,

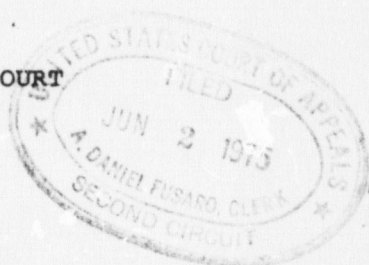
v.

LAWYERS COOPERATIVE PUBLISHING COMPANY, INC., et al.,

Defendants-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

JOINT APPENDIX
VOLUME II, PAGES 179-343



EMMELYN S. LOGAN-BALDWIN
510 Powers Building
Rochester, New York 14614
Attorney for Plaintiffs-
Appellants

JOHN B. MCCRORY
JAMES H. MORGENSTERN
NIXON, HARGRAVE, DEVANS
& DOYLE
Lincoln First Tower
Rochester, New York 14603
Attorneys for Defendants-
Appellees

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Acting General Counsel
JOSEPH T. EDDINS
Associate General Counsel
BEATRICE ROSENBERG
CHARLES L. REISCHEL
JAMES P. SCANLAN
Attorneys
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
2401 E Street, N.W.
Washington, D.C. 20506

PAGINATION AS IN ORIGINAL COPY

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

EULA LEE BLOWERS, individually and on
behalf of all other persons similarly
situated,

Plaintiff,

-vs-

LAWYERS COOPERATIVE PUBLISHING COMPANY,
INC., DONALD BENNETT, CHARLES DONNER
and ROBERT FEIN,

Defendants.

ANSWERING

AFFIDAVIT

CIV 1973-47

STATE OF NEW YORK:
COUNTY OF MONROE : SS:
CITY OF ROCHESTER:

DONALD S. BENNETT, being duly sworn, deposes and
says:

1. I am Director of Personnel for defendant Lawyers
Cooperative Publishing Company, and I am familiar with the facts
of this action and the personnel records of defendant Lawyers
Cooperative Publishing Company.

2. This affidavit is submitted in opposition to
plaintiff's motion, dated April 3, 1974, to shorten the time
in which defendant Lawyers Cooperative Publishing Company may
answer plaintiff's "First Interrogatories."

3. I have been informed by defendants' counsel that
on April 3, 1974, plaintiff served her "First Interrogatories,"
and plaintiff simultaneously served motion papers returnable
before this Court seeking to shorten the time provided for
defendants to answer these Interrogatories, requesting the
Court to postpone its hearing on the propriety of this action
going forward as a class action until one week after defendants
had provided answers to such "First Interrogatories."

4. Defendant Lawyers Cooperative Publishing Company urges that this Court deny the delay of the class action hearing as requested by plaintiff. Plaintiff began this action January 29, 1973, some 15 months ago. At that time, plaintiff denominated this action as a "class action." Therefore, plaintiff knew some 15 months ago that it was instituting a class action. If plaintiff desired the extensive discovery requested in her "First Interrogatories" and believed that such discovery was necessary, she should have served these Interrogatories long ago. Your deponent submits that plaintiff is once again attempting to delay determination of whether this action should proceed as a class action, a determination which is required to be made, pursuant to FRCP 23(c)(1), "as soon as practicable after the commencement of" the action. Heretofore, defendants have suggested both formally and informally to plaintiff's attorney that the proper method of discovery in this case is through Interrogatories. Defendants submit, however, that plaintiff delayed service of these Interrogatories until the last possible moment, in the hope of delaying the class action determination. These tactics should be denied by the Court.

5. Defendant Lawyers Cooperative Publishing Company has reviewed plaintiff's "First Interrogatories." All of the Interrogatories which require information about its employees and its educational, promotion, transfer, and other practices, can be answered only by a mechanical, clerical review of each and every personnel file kept by the company. In order to answer the Interrogatories, defendant will have to survey in excess of 3,200 personnel files. There are presently approximately 1,000 active employees of Lawyers Cooperative Publishing Company.

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6. From each of the 3,200 personnel files, a complete profile of every employee of the company, active and

inactive, for the appropriate time period must be constructed. Such a profile is necessary if defendant is to answer Interrogatories such as Interrogatory 18, 25 and 26.

7. Defendant does not have the required information to answer these Interrogatories on computer. Defendant's limited computerized records could not begin to be used to answer these Interrogatories. For example, to determine whether or not a particular qualification for a job was waived when an employee took the job, as required to answer Interrogatory 31, the individual employee's qualifications will have to be matched against the requirements for the job at that time. If the employee met the qualifications, then it would be assumed that the qualifications were not waived. If the employee's qualifications did not meet the required qualifications of the job, then defendant assumes that it would be considered a waiver. After waiver is thus established, defendant will have to determine why the requirements of that job were waived. This is simply not the kind of information which is available on computer. The computer lists present employees (not inactive employees), their present job category, their present salary, and their last one or perhaps two job changes if these last one or two job changes occurred within the last three years.

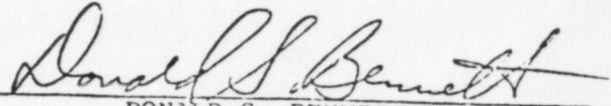
8. Defendant has determined that the time required to prepare the required extracts of each personnel file and other basic documents will average three hours of clerical time for each employee, past and present. Therefore, simply to extract the required data from the personnel files will require in excess of 9,000 man-hours of clerical staff work. Obviously, after the material is extracted from the files, additional time will be required to extract from the raw data base the answers to the Interrogatories and prepare ¹⁹¹ required schedules, a

combined clerical and legal task, which in itself will take considerable time. Nonetheless, defendant recognizes that it has an obligation to use its best efforts to obtain answers to these Interrogatories and it will do so. However, it cannot do so in twenty-six days.

9. In view of the number of files that must be reviewed, the size of the files, and the detail of information required by these Interrogatories, defendant cannot provide answers to these Interrogatories before Fall, 1974. Even to do that will require the hiring of an additional clerical staff of twenty (20) people, to perform these complicated tasks. Even before the clerical personnel can start to go through the basic personnel records, there will have to be extensive and detailed pre-planning and a large spread sheet prepared, so that the clerical personnel can obtain all the information required by all these Interrogatories from each company document at one time, as opposed to going through all the company documents separately in response to each separate Interrogatory, which would be an even more extensive task. Defendant, however, understands that it is its obligation to provide this information and it will do so as directed by this Court.

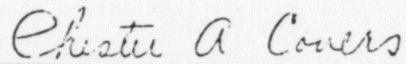
10. Therefore, defendant requests that plaintiff's motion be denied. Moreover, in view of the volume of information requested by the extensive Interrogatories, defendant requests that it be granted an appropriate extension of time to present answers. Defendant will begin to compile the required information as soon as possible. At this time, defendant cannot fix any particular date when it will be able to provide the answers, but it will require at least six months of work at a conservative estimate. If the Court believes it necessary, defendant will report its progress in compiling the required

information to the Court on a regular basis.


DONALD S. BENNETT

Sworn to before me

¹⁸
April 17, 1974.



CHESTER A. COVERS
Notary Public in the State of New York
MONROE COUNTY, N. Y.
Commission Expires March 30, 1975

[Filed 4/22/74]

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

EULA LEE BLOWERS, individually and on behalf of
all other persons similarly situated,

Plaintiff,

- v -

LAWYERS COOPERATIVE PUBLISHING COMPANY, INC.
Donald Bennett, Charles Donner and Robert
Fein,

Defendants.

Civil Action
No. 1973-47

AFFIRMATION
IN SUPPORT OF
PLAINTIFF'S
MOTION AND IN
OPPOSITION TO
DEFENDANTS'
APPLICATION TO
EXTEND TIME
TO ANSWER IN-
TERROGATORIES
AND MOTION FOR
PROTECTIVE OR-
DER

Under penalties of perjury, Emmelyn Logan-
Baldwin, affirms the following:

1. I am an attorney and counselor at law
duly licensed to practice my profession in the State of New
York. I am admitted to practice before the bar of this Court.
I am the attorney for the Plaintiff in the above noted law
suit. I am familiar with the pleadings and proceedings in the
law suit.

2. This affirmation is submitted in support
of Plaintiff's motion to shorten time for the Defendants to
answer Plaintiff's First Interrogatories and Notice To Produce
on the ground that the information to be supplied by the
Defendants in the Interrogatories and production of documents,
is, at a minimum, information that would need be produced by

the Defendants in advance of the preliminary evidentiary hearing herein with respect to the maintenance of this law suit as a class action. This affirmation is submitted in opposition to Defendants' request by its answering affidavit of Donald S. Bennett, April 18, 1974, that the Court extend the time for Defendants to answer Plaintiff's First Interrogatories until Fall, 1974. This affirmation is also submitted in opposition to the Motion For A Protective Order of the Defendants, dated April 17, 1974 and requesting the Court's limiting the scope of Plaintiff's First Interrogatories to the period from December 31, 1969 to December 31, 1973, inclusive.

3. Deponent hereby objects to the untimely service of Defendants' Motion For Protective Order, dated April 17, 1974 and served by mail, according to the attached certificate of service, that same day, noticing hearing on the motion for April 22, 1974 - thereby giving Plaintiff far less than the minimum five days notice of motion as required by the Federal Rules of Civil Procedure. Plaintiff requests an adjournment of Defendants' Motion For Protective Order to the next motion term of the Court for the purpose of submitting whatever additional opposition papers and/or briefs might be required after sufficient time to review Defendants' motion.

4. Plaintiff has no intention of delaying the preparation of this law suit for trial much less delaying any necessary preparation of this law suit for the determination of its pendency as a class action. Thus Plaintiff moved by her motion to shorten time for the answering of Interrogatories and

for the production of documents so that this information would be available to Plaintiff in advance of times which deponent has suggested that she and counsel for the Equal Employment Opportunity Commission, Amicus Curiae, are available for the preliminary evidentiary hearing on the question of maintaining this law suit as a class action. While there presently is no date set for the preliminary evidentiary hearing on the class action question, deponent brought this motion to shorten responses for the Interrogatories and production of documents so that an early hearing on the class action question would be facilitated. To date, counsel for the Defendants has given no indication of his availability for the preliminary evidentiary hearing; on the setting of hearing dates in this and other actions, counsel for Defendants has always maintained that his calendar is booked at least a month in advance.

5. Since the Plaintiff's filing of this law suit on or about February 1, 1973, and since the filing of the related lawsuits, Loughney and Genesee Valley Chapter of the National Organization For Women v. Lawyers Cooperative Publishing Company (complaint filed on or about May 11, 1973) and Nageotte, et al v. Lawyers Cooperative Publishing Company (complaint filed on or about July 16, 1973), the Plaintiffs have made dogged efforts to secure information in the control of the Defendants which is directly supportive of Plaintiffs' position that these law suits ought proceed as a class action. For example, on or about February 23, 1973, Plaintiff in this law suit served on the Defendants Cross Notice Of Deposition with demand for production of documents, which documents would substantiate the Company-wide aspects of the discrimination

alleged by the Plaintiff and establish the common questions of law and fact between Plaintiff's and other employee's claims and otherwise establish the appropriateness of the maintenance of this law suit as a class action pursuant to Rule 23 of the Federal Rules Of Civil Procedure. When the Defendants refused to produce documents and appear for depositions, Plaintiff moved by motion of March 22, 1973 to compel depositions and the production of documents. On March 23, 1973, the Defendants made blanket objection to producing any documents and by motion of April 2, 1973, the Defendants moved to be relieved of the responsibility of producing virtually all of the documents demanded by Plaintiff. Plaintiff renewed her motions to compel Defendants to appear for depositions and produce documents by motion of February 11, 1974. And on April 3, 1974, Plaintiff in this law suit served First Interrogatories and Notice To Produce together with motion for shortening time of responses.

6. Immediately after issue being joined in Loughney and Genesee Valley Chapter of the National Organization For Women v. Lawyers Cooperative Publishing Company, on January 8, 1974, Plaintiff moved to compel Defendants to appear for depositions and produce documents by motion of February 8, 1974 and served Notice Of Deposition and Notice To Produce of the same date. The information requested by Plaintiffs in that law suit includes information which will establish all of the Plaintiffs' claim that discrimination practiced by Defendant Lawyers Cooperative Publishing Company is Company-wide discrimination on the basis of sex, race and national origin, that there are common questions of law or fact and that this law suit meets the requirements of Rule 23 of the Federal Rules Of

Civil Procedure for proceeding as a class action.

7. Attorneys for Defendant declined to appear for the depositions noticed by the Plaintiffs in Loughney and Genesee Valley Chapter of the National Organization For Women v. Lawyers Cooperative Publishing Company or to set mutually convenient dates for those depositions with Plaintiffs' attorney. The Defendant responded to the Notice To Produce with claims of privilege from production as to documents relevant to the showing of class wide discrimination at Defendant Lawyers Cooperative Publishing Company.

8. As provided in Rule 26(d) of the Federal Rules Of Civil Procedure, a party can use any of the methods of discovery in any sequence and the fact that a party is conducting discovery, whether by deposition or otherwise, shall not operate to delay any other party's discovery. As has been pointed out to the Court in the motions of all the Plaintiffs in these law suits, Defendants have taken the position that they are not obliged to participate in discovery until the discovery of Plaintiffs' cases is completed. Counsel for the Plaintiffs has had no "informal" conversations with any of the Defendants, as Defendant Bennett suggests in his affidavit of April 18, 1974, paragraph 4, as to interrogatories being the "proper method of discovery in this case." Defendants' formal positions on discovery in this case are contained in its blanket objection to production of documents dated March 23, 1973, its notice of motion of April 2, 1973 to be relieved of the responsibility of producing virtually all documents and their Answering Affidavit of March 8, 1974. A reading of these

pleadings of the Defendants demonstrates that the Defendants have simply opposed discovery as requested by the Plaintiff.

9. As Plaintiff points out in her motion to shorten time for the responses to the Interrogatories and Notice To Produce, Defendants have been on notice since on or about February 1, 1973 with the filing of this law suit of the claims of Company-wide discrimination practiced by Defendant Lawyers Cooperative Publishing Company and the necessity of their responding in the discovery process to the production of information directly supporting those claims.

10. Moreover, contrary to what Defendant Bennett suggests in his affidavit of April 13, 1974, since Defendant Lawyers Cooperative Publishing Company is a federal contractor, it is required to keep the broad statistical information and analysis on its work force in the ordinary course of doing business as a condition of keeping its federal contracts. The affirmative action program which Defendant Lawyers Cooperative Publishing Company is required to keep by virtue of Revised Order No. 4, 41 CFR 60-2, 1 ECH Employment Practices Guide ¶ 4320, includes a work force analysis defined as " . . . a listing of each job classification as appears in applicable collective bargaining agreements or payroll records (not job group) ranked from the lowest paid to the highest paid within each department or other similar organizational unit including departmental or unit supervision." Also included in the affirmative action program is an analysis " . . . of all major job classifications at the facility, with explanations if minorities or women are

currently being under utilized in any one or more job classifications . . . " 41 CFR 60-2.11, 1 CCH Employment Practices Guide § 4320.11. (For the Court's convenience Revised Order No. 4 is attached hereto and made a part hereof as Exhibit A.)

11. The information requested by Plaintiff in the Interrogatories has been developed and is now readily available for the Defendants to submit to the Court since the Genesee Valley Chapter of the National Organization For Women in December of 1971 made complaint to the Office Of Federal Contract Compliance, the agency charged with the review of government contractor affirmative action programs, that the Lawyers Cooperative Publishing Company affirmative action program was deficient and that there was evidence that the Company engaged in class wide discrimination in employment against women solely on the basis of sex. The N.O.W. complaint led to a direction by the Office Of Federal Contract Compliance to Defendant Lawyers Cooperative Publishing Company to show cause why its federal contracts should not be terminated because of evidence of Company-wide discrimination in employment against women on the basis of sex. Defendant Lawyers Cooperative Publishing Company avoided termination of its contracts by agreeing to undertake certain actions at the direction of the Office Of Federal Contract Compliance.

12. The information which Plaintiff requests in First Interrogatories is also readily within the production of Defendant Lawyers Cooperative Publishing Company since Defendants have acknowledged that between December 1971 and February 8, 1972, they caused a study to be prepared by an inde-

pendent consulting firm evaluating the job descriptions, the job status, salary, etc. of all male and female employees of Defendant Lawyers Cooperative Publishing Company. (See Defendant's Response To Notice For Production paragraph 4, Loughney, et al v. Lawyers Cooperative Publishing Company.)

13. The information which Plaintiff requests in the First Interrogatories is readily available to the Defendants since, additionally, Revised Order No. 14, 41 CFR 60-60, 1 CCH Employment Practices Guide, ¶ 4345, requires that Defendant Lawyers Cooperative Publishing Company work force analysis compiled in its affirmative action programs, pursuant to law shall contain.

" . . . a listing of each job classification as appears in applicable collective bargaining agreements or payroll records (not job group) rank from the lowest paid to the highest paid within each department or a similar organizational unit including departmental or unit supervision. If there are separate work units or lines of progression within a department a separate list must be provided for each such work unit, or line, including unit supervisors. For lines of progression there must be indicated the order of jobs in the line through which an employee could move to the top of the line. For each job classification, the total number of male and female incumbents, the total number of male and female incumbents in each of the following groups must be given: Blacks, Spanish-surnamed Americans, American Indians, and Orientals. The wage rate or salary range for each job classification should be given. All job classifications, including managerial job classifications, must be listed."

A copy of Revised Order No. 14 together with the offsite and onsite review check lists detailing the information which Lawyers Cooperative Publishing Company must have already assembled pursuant to law is attached hereto and made a part hereof

as Exhibit B.

13. Response to Plaintiff's First Interrogatories could not, as Defendants suggest be the occasion for the hiring of additional personnel who will for the first time involve Defendant Lawyers Cooperative Publishing Company in work force analysis for the Interrogatories since the Defendants even prior to Plaintiff beginning this law suit had been required by law to have undertaken such work force analysis and since the filing of this law suit have been compelled by the Office Of Federal Contract Compliance to re-analyze their pre-existing work force analysis.

14. There is no basis for Defendants' suggestion by their motion of April 17, 1974 for the Court to limit the scope of Plaintiff's First Interrogatories to the period from December 31, 1969 to December 31, 1973, inclusive. 1960, the date from which information is requested in the First Interrogatories, is the year of employment of Plaintiff Eula Lee Blowers by Defendant Lawyers Cooperative Publishing Company. (See complaint, paragraph 4.) Plaintiff Blowers alleges that there has been and is Company-wide discrimination in employment on the basis of sex, race and national origin which has adversely deprived women employees of Lawyers Cooperative Publishing Company of equal opportunities. Rule 26(b) of the Federal Rules Of Civil Procedure provides that a party may obtain discovery of any matter which is relevant to the subject matter involved in a pending action. The Supreme Court has ruled that even on an individual claim of discrimination, a Plaintiff may introduce

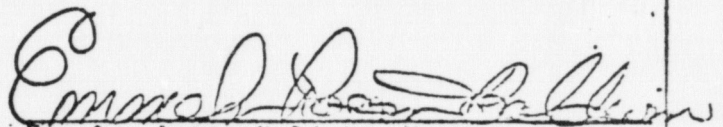
evidence of the patterns and practices of discrimination which are evidenced through the employment statistics and work force analysis of a defendant employer. McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973). Evidence even of employment practices which are not discriminatory on their face but which are discriminatory in application can and must be produced. Griggs v. Duke Power Co., 401 U.S. 424 (1971).

15. Defendants' citation of Laffey v. Northwest Airlines, Inc., (a copy of decision reproduced in Defendants' motion of April 17, 1974) does not support any limitation of Plaintiff's discovery in this case but rather persuades answering of the First Interrogatories as submitted. The Laffey case involved a claim brought under the Equal Pay Act rather than the Civil Rights Act of 1964, as is the present claim. The Court in Laffey exercised its discretion to limit the back pay award to two years prior to the filing of the equal pay claim. The Court underscored that it had considered the entire history of the Company's discrimination by noting that its decision had included consideration of the " . . . traditional practice of the Company in treating the positions as unequal, the general industry practice to the same effect, the acquiescence of the stewardesses' bargaining representative in this arrangement, the absence of any grievances or even suggestions from stewardesses to the Company prior to the present controversy . . ." Further, the Court in Laffey, noted that it had considered the entire employment history surrounding the claims in question because the Court needed to determine whether the Company had persisted

in discrimination in a "willful" fashion justifying a larger money judgment against the Company. Because the Court in Laffey found the evidence of the Company's acts over a period of time to demonstrate "good faith", the Court limited the award.

16. In the present case, Plaintiff has alleged a deliberate course of conduct by the Defendants to discriminate on the basis of sex, race and national origin, which deliberate conduct by the Defendants includes attempts to retaliate and intimidate employees who complain of discrimination. Plaintiff has asked for not only compensatory damages but punitive damages.

For these reasons, Plaintiff respectfully requests that the Court grant Plaintiff's motion to shorten time in which Defendants may answer First Interrogatories and Notice To Produce and that the Court deny Defendants' request to extend the time for the answering of the Interrogatories to Fall, 1974 and to limit the scope of those Interrogatories to the period from December 31, 1969 to December 31, 1973, inclusive.



Emmelyn Logan-Baldwin, Esquire
Attorney For Plaintiff
19 Arnold Park
Rochester, New York 14607
716 442-4150

April 20, 1974.

[Filed 5/8/74]

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

EULA LEE BLOWERS, individually, and on behalf
of all other persons similarly situated,

50 Joanna Drive
Rochester, New York

Plaintiff,

- v -

LAWYERS COOPERATIVE PUBLISHING COMPANY, INC.
One Aqueduct Street, Rochester, New York

DONALD BENNETT,
One Aqueduct Street, Rochester, New York

CHARLES DONNER
One Aqueduct Street, Rochester, New York

ROBERT FEIN,
Rochester, New York

Defendants.

NOTICE OF MOTION

TO COMPEL DISCOVERY

Civil Action

No. Civ.-1973-47

PLEASE TAKE NOTICE THAT, upon Plaintiff's Notice
To Produce dated April 3, 1974, the affirmation of Emmelyn
Logan-Baldwin dated May 7, 1974 and upon all the papers and
pleadings heretofore filed herein, the Plaintiff will bring a
motion, pursuant to FEDERAL RULE OF CIVIL PROCEDURE 37 to
compel the production and inspection of documents pursuant to
Plaintiff's Notice to Produce, and for such other and further
relief as to the Court may seem just and proper, for hearing
before this Court at a motion term thereof on May 13, 1974
at the Federal Building, State Street, Rochester, New York,
at 10:00 A.M. or as soon thereafter as counsel can be heard.

Ernest Louis Baldwin
ERNEST LOUIS BALDWIN, ESQUIRE
Attorney for Plaintiff
Office and Post Office Address
19 Arnold Park
Rochester, New York 14607
716 442-4150

Dated: May 7, 1974

TO: NIXON, HARGRAVE, DEVANS & DOYLE
John B. McCrory, Esquire of Counsel
Lincoln First Tower
Rochester, New York 14604
716 546-8000

Attorney for Defendants

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

EULA LEE BLOWERS, individually, and on behalf
of all other persons similarly situated,

50 Joanne Drive
Rochester, New York

Plaintiff,

- v -

LAWYERS COOPERATIVE PUBLISHING COMPANY, INC.
One Aqueduct Street, Rochester, New York

DONALD BENNETT,
One Aqueduct Street, Rochester, New York

CHARLES DONNER
One Aqueduct Street, Rochester, New York

ROBERT FEIN,
Rochester, New York
Defendants.

"AFFIRMATION IN
"SUPPORT OF MOTION
"TO COMPEL PRODUCTION
"AND INSPECTION OF
"DOCUMENTS.

"Civil Action
"No. 1973-47

Emelyn Logan-Baldwin, under penalties of perjury,
affirms the following;

1. I am an attorney and counselor at law duly
licensed to practice my profession in the State of New York. I
am admitted to the Bar of this Court. I am the attorney for the
Plaintiff in the above noted lawsuit. I am familiar with the
pleadings and proceedings in the lawsuit.

2. On April 3, 1974, I caused to be personally served on Attorneys for the Defendants herein, Nixon, Hargrave, Devans & Doyle at their offices in Rochester, New York, a copy of Plaintiff's Notice to Produce dated April 3, 1974.

3. The Defendants are required, pursuant to Federal Rule of Civil Procedure 34 to serve a written response to the Notice to Produce within 30 days after service of the request. More than 30 days have expired since the service of Plaintiff's Notice to Produce and the Defendants have served no response.

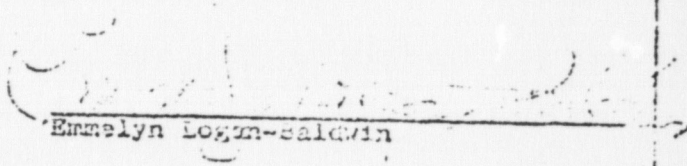
4. At the time of Plaintiff's serving Notice to Produce, Plaintiff also caused to be served Notice of Motion to shorten time for production and inspection of documents to on or before April 29, 1974.

5. Defendants, by affidavit of Donald S. Bennett, sworn, April 18, 1974, opposed Plaintiff's application to shorten time for the answering of First Interrogatories and instead requested an extension of time to answer Plaintiff's First Interrogatories to the Fall of 1974. Defendants stated no opposition to Plaintiff's Motion to Shorten Time for the Production and Inspection of Documents nor did Defendants make any suggestion that they would not comply, pursuant to the Federal Rules of Civil Procedure, with the production of documents within the 30 day period for response provided in the Federal Rules.

6. By Motion dated April 17, 1974, the Defendants moved for protective order to limit the scope of Plaintiff's First Interrogatories. Defendants again made no mention of any opposition to Plaintiff's application to shorten time for the production and inspection of documents, nor did the defendants

make any mention of their inability to respond to the Notice to Produce within the 30 days allotted for such response by the Rules of Civil Procedure.

7. Accordingly, the Defendants are in default in answering Plaintiff's Notice to Produce pursuant to the Federal Rules of Civil Procedure. Plaintiff requests, pursuant to Rule 37 of the Federal Rules of Civil Procedure, that the Court compel the production and inspection, pursuant to Plaintiff's Notice to Produce and that the Court award to Plaintiff the costs and expenses of this motion and impose upon the Defendants the sanctions outlined Rule 37 of the Federal Rules of Civil Procedure for the failure of a party to participate in discovery.


Emmelyn Logan-Saldivin

May 7, 1974
Rochester, New York

5/16/74

[Filed 5/20/74]

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

EULA LEE BLOWERS, individually and
on behalf of all other persons
similarly situated,

Plaintiff,

ANSWERING
AFFIDAVIT

-vs-

LAWYERS COOPERATIVE PUBLISHING
COMPANY, INC., DONALD BENNETT,
CHARLES DONNER and ROBERT FEIN,

Defendants.

James H. Morgenstern, being duly sworn, deposes and
says:

1. I am an associate of the firm of Nixon, Hargrave,
Devans & Doyle, attorneys for defendants, and am fully familiar
with this action.

2. As a part of a blizzard of paper, and attached at
the rear of 65 specific interrogatories, plaintiff served upon
defendants a notice to produce certain documents, dated April 3,
1974.

3. Plaintiff's notice to produce, dated April 3, 1974,
is simply another instance in the course of harassment undertaken
by plaintiff, harassment which does nothing to further plaintiff's
lawsuit, which is unwarranted under the Federal Rules, and which
unnecessarily increases defendants' costs and expenses, and the
Court's time.

4. Virtually every item requested by plaintiff in her
notice dated April 3, 1974 has already been made available to
plaintiff's attorney (an opportunity plaintiff has all but
ignored), or is a request identical or substantially identical
to requests previously made by plaintiff, which are now presently
before this Court for decision.

5. Exhibit A, attached hereto, itemizes plaintiff's
request. As can be seen, most of the items requested on April 3,

1974 had been requested by plaintiff on March 13, 1973, were then the objects of timely objection by defendants, and were objects of a motion for a protective order by defendants, dated April 2, 1973, which motion is now before this Court.

6. In short, plaintiff has made these requests before and this Court has taken these requests under advisement. Nonetheless, plaintiff has again requested these same items, without waiting for this Court's rulings.

7. Plaintiff's request, and now her motion under FRCP 37, make a sham of the Federal Discovery Rules, which are to be used to further litigation, not harass opponents. Plaintiff and her counsel are well aware of defendants' position on the items requested. There is no good reason for plaintiff to repeatedly request production of these items when they have already been made available or when this Court has yet to rule upon the propriety of their discovery.

Dated: May 16, 1974

/s/ James H. Morgensgern
James H. Morgensgern

Sworn to before me this
16th day of May, 1974.

/s/ John T. Fitzgerald

JOHN T. FITZGERALD, JR.
Notary Public in the State of New York
NOMES COURT
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EXHIBIT "A"

Requested in Notice to
Produce Dated 4-3-74

ITEM NO.

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Requested in Notice to
Produce Dated 3-13-73

ITEM NO.

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* Also requested by plaintiff and objected to by Defendant,
The Lawyers Cooperative Publishing Company in Loughney,
et. al. vs. The Lawyers Cooperative Publishing Company,
CIV-1973-238.

** Copies already given to plaintiff's attorney at defendants'
expense.

*** Available as part of Eula Lee Blower's personnel file, a
copy of which has been given to plaintiff and her attorney
at defendants' expense.

**** 11 of the materials requested in these items have previous-
ly been objected to, or made available in this action or
in Loughney, et. al. vs. The Lawyers Cooperative Publishing
Company.

[Filed 5/21/74]

UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF NEW YORK

EULA LEE BLOWERS, individually and on behalf
of all other persons similarly situated,

Plaintiff,

- v -

LAWYERS COOPERATIVE PUBLISHING COMPANY, INC.,
DONALD BENNETT, CHARLES DONNER and ROBERT
FIEN,

Defendants.

* SUPPLEMENTAL
* AFFIRMATION IN
* SUPPORT OF MOTION
* TO COMPEL DIS-
* COVERY
* Civil Action
* No. 1973-47
*
*
*

EMMELYN LOGAN-BALDWIN, under penalties of per-
jury, affirms the following:

1. I am an attorney and counselor at law duly
licensed to practice my profession in the State of New York.
I am admitted to the Bar of this Court. I am the attorney for
the Plaintiff in the above noted action. This affirmation
supplements my affirmation of May 7, 1974 in support of Plain-
tiff's Notice Of Motion To Compel Discovery of May 7, 1974 and
is submitted in reply to the answering affidavit of James H.
Morganstern, Esquire, dated May 16, 1974.

2. On April 3, 1974, I personally delivered
to the offices of attorneys for Defendants, Nixon, Hargrave,
Devans & Doyle, three separate pleadings for the plaintiffs
- First Interrogatories Propounded By Plaintiff; Notice To
Produce and Notice Of Motion To Shorten Time For The Responses
To First Interrogatories And Notice To Produce. At the time
of leaving the papers, I asked to and did talk to the counsel
for the Defendants, John B. McCrory. I discussed with Mr.
McCrory the general content of the papers served, his avail-

ability for arguing the motions on the calendar date, April 8, 1974 and suggested that, in light of his letter to the Court of April 1, 1974 suggesting that Plaintiff had just not taken advantage of the discovery offered, there would be no need for us to argue the motion to shorten time for the answering of the interrogatories and the production of documents since he had so recently indicated the willingness of the Defendants to cooperate with discovery. However, at that time, as I indicated to the Court in my letter of April 4, 1974, copy attached hereto as Exhibit A, Mr. McCrory indicated that Defendants' position would be to oppose the production of documents requested and to decline to answer Plaintiff's Interrogatories.

3. Accordingly, as outlined in my affirmation of May 7, 1974, the Defendants calendared motions to limit the scope of Plaintiff's First Interrogatories and to extend the time for answering of interrogatories to the Fall of 1974 while ignoring completely any response to Plaintiff's Notice To Produce.

4. Defendants submit through the Morgenstern affidavit of May 16, 1974, that Plaintiff again has simply ignored opportunities made available. When Defendant last made this suggestion, Plaintiff again made request for production of documents through the notice dated April 3, 1974 with Defendants' first response being to ignore the Notice To Produce completely and then when Plaintiff sought to compel the discovery pursuant to the Notice To Produce the Defendant labels the Notice as "harassment." As Plaintiff pointed out to the Court in her letter of April 4, 1974, if Defendants were willing to make documents available to Plain-

tiff as suggested, then Defendants' position would be that their Notice Of Objection dated March 23, 1973 and Notice Of Motion dated April 2, 1973, would be withdrawn and the Defendants would respond promptly to Plaintiff's First Interrogatories and Notice To Produce served April 3, 1974.

5. Of the twenty five items in the Notice To Produce which Defendants analyze in the Morgenstern affidavit of May 16, 1974, there are eight categories of documents which Defendants suggest have already been produced in some fashion. Counsel on behalf of Plaintiff Loughney in Loughney and Canoe Valley Chapter of the National Organization For Women v. Lawyers Cooperative Publishing Company, has acknowledged in the Reply Brief In Support Of Plaintiffs' Motion For Order Compelling Discovery, Etc., April 25, 1974, page 36, that "Defendant has answered Plaintiffs' Notice To Produce some 33 documents by responding that 12 documents would be presented at a later date, that 15 documents are privileged, that 2 documents are non-existent and that 4 documents are impossible to identify. In fact, no original documents have ever been produced by the Defendant even as promised in Defendant's written response. A group of xeroxed papers was delivered to the office of Plaintiffs' attorney; many of the documents are illegible and none of the documents are grouped so as to enable Plaintiffs' to identify the demands sought to be met by the production."

6. The Defendants have not complied with their obligations under the Federal Rules Of Civil Procedure to participate in discovery and Plaintiff respectfully requests that the motion of May 7, 1974 to compel production be granted.

EMELYN LOGAN-BADWIN

May 17, 1974.

205

Seaneater, New York.

April 4, 1974

The Honorable Harold P. Burke
Judge, United States District
Court For The Western District
Of New York
Federal Building
State Street
Rochester, New York 14614

Re: Eula Lee Blowers, Individually And On Behalf
Of All Other Persons Similarly Situated v.
Lawyers Cooperative Publishing Company, Inc.
et al - Civil - 1973-47

Dear Judge Burke:

Mr. McCrory's letter to you of April 1, 1974 constituting his written opposition to Plaintiff's Motion To Compel Discovery, Extend Time To Answer Interrogatories And For Protective Order, was received yesterday. This reply is submitted by Plaintiff to that letter.

The record in this case establishes that Plaintiff served Cross Notice Of Deposition on the Defendants to take the depositions of agents and/or employees of the Defendants beginning March 14, 1973 and continuing on successive days until completion. The Notice Of Deposition was accompanied by a notice that the Defendants were required to produce all documentary evidence in their possession relating directly or indirectly to the issues of Plaintiff's complaint. (A copy of the Notice Of Deposition is Exhibit C of Plaintiff's motion of March 22, 1973.)

The Honorable Harold P. Burke
Re: Blowers, et al v. Lawyers Co-
operative Publishing Co., et al
April 4, 1974
Page Two

In advance of the scheduled date of depositions, Plaintiff listed the specific documents that are in the Defendants' possession and directly related to Plaintiff's claims and which Plaintiff expected to be produced at the depositions. Plaintiff also notified Defendants' attorney of the order in which the depositions of the Defendants' agents and employees would be conducted. (See Plaintiff's attorney's letter, Exhibit D of Plaintiff's motion of March 22, 1973.)

Defendants made no motion in advance of the scheduled deposition for protective order as to the scheduling of the depositions or the production of documents. Defendants' attorneys gave no informal indication of any objection by way of telephone or letter to Plaintiff's attorney as to the timing or scheduling of the depositions pursuant to Plaintiff's notice.

However, at the time of the scheduled depositions, attorneys for the Defendants refused to proceed with the depositions of the Defendants and with the production of documents pursuant to the Notice and refused to schedule any dates for the production of documents or the depositions of the Defendants maintaining that they would only schedule dates for the continuation of the deposition of Plaintiff Blowers. (See Appendix A, Plaintiff's Memorandum Of Law, April 20, 1973 - excerpt from deposition transcript - pages 187 - 197.)

Plaintiff thereafter moved by Motion dated March 22, 1973, for an order compelling the Defendants to appear for depositions and to produce relevant documents, for protective order of the Court in the conduct of the further deposition of Plaintiff Blowers and for an extension of time in which to answer Defendants' First Interrogatories. Plaintiff renewed that motion and requested additional relief in the motion of March 11, 1974.

The Honorable Harold P. Burke
Re: Blowers, et al v. Lawyers Co-
operative Publishing Co., et al
April 4, 1974
Page Three

Subsequent to the refusal to appear for depositions and produce documents, Defendants qualified their position on production of documents by service of Notice Of Objection dated March 23, 1973. (See Appendix C to Plaintiff's Memorandum Of Law, April 20, 1973.) However, answering Plaintiff's Motion To Compel Depositions And The Production Of Documents, the Defendants by Motion dated April 2, 1973, took the position that virtually none of the documents requested by the Plaintiff should be produced "... on the grounds that said documents are requested by plaintiff simply to embarrass, annoy and humiliate employers and managers of Defendant Lawyers Cooperative Publishing Company; further that some of said documents are confidential and prepared pursuant to Federal Law and should not be made available to anyone but Federal employees and agents acting within their proper scope of employment"

In light of Defendants' suggestion in their attorney's letter of April 1, 1974 that "Defendants at one time agreed to make many documents available for Plaintiff's inspection", and Plaintiff has just not taken advantage of that offer, Plaintiff wonders whether it is now Defendants' position that their Notice Of Objection dated March 23, 1973 and Notice Of Motion dated April 2, 1973 have been withdrawn.

The willingness of the Defendants to proceed in good faith with discovery as is mandated by the Federal Rules Of Civil Procedure could be demonstrated by Defendants' immediate completion of First Interrogatories Propounded By Plaintiff and compliance with the Notice To Produce served April 3, 1974 and requesting information that Plaintiff will need, at a minimum, in advance of the preliminary evidentiary hearing to be scheduled herein on the maintenance of this lawsuit as a class action. However, when I talked with Mr. McCrory on serving these papers yesterday, he orally indicated that De-

The Honorable Harold P. Burke
Re: Blowers, et al v. Lawyers Co-
 operative Publishing Co., et al
April 4, 1974
Page Four

Defendants' position would be to oppose the production of documents requested and to decline to answer Plaintiff's Interrogatories.

Defendants suggest in their letter of April 1, 1974 that they might be cooperating with the Plaintiff in supplying certain information. As this Court is aware from the pleadings in this case, claims of employment discrimination against Lawyers Cooperative Publishing Company of Plaintiff Blowers and the other past or present employees of Lawyers Cooperative Publishing Company are pending before the New York State Division Of Human Rights after the New York State Division Of Human Rights found "probable cause" to believe that discrimination had occurred as alleged by the complainants.

The New York State Division Of Human Rights first tried to have Lawyers Cooperative Publishing Company voluntarily surrender the "patterns and practice" evidence of discrimination which is, of course, directly relevant to the claims of the complaining parties. When Lawyers Cooperative Publishing Company refused to produce the documentary evidence voluntarily, complaining parties, with the support of the general counsel's office of the New York State Division Of Human Rights, subpoenaed the documents in March of 1973.

The one document, the computer printout of company employees as of December 19, 1973, was submitted by the Defendants to the Supreme Court of Monroe County, The Honorable James H. Boomer, presiding, after Judge Boomer's Memorandum Decision of December 8, 1973 holding that all documents subpoenaed were relevant and must be produced.

The one document submitted by the Defendants to the Court was in connection with an effort of

The Honorable Harold P. Burke
Re: Blowers, et al v. Lawyers Co-
operative Publishing Co., et al
April 4, 1974
Page Five

the Defendants to limit the Judge's Memorandum Decision of December 8, 1973. The one document finally produced by the Defendants neither complies with the requirements of the Subpoena in that case nor the Judge's Memorandum Decision of December 8, 1973 nor does that one document remotely comply with any request that Plaintiff has duly made to date in this litigation for the production of the "patterns and practice" documentation and evidence of discrimination maintained in the Defendants' files.

Defendants seem to be arguing in their letter of April 1, 1974 that they ought to be given credit for the production of one incomplete document in another legal proceeding after Court process was issued and enforced to produce that document. What documents have or have not been produced and what rulings on relevance might exist in other actions of discrimination by Plaintiff and the other past or present employees of Lawyers Cooperative Publishing Company do not control the disposition of Plaintiff's legitimate requests for discovery in this litigation.

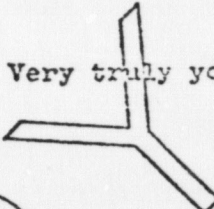
However, since Defendants seem to place so much emphasis in their letter on how their discovery of Plaintiff Blowers position has been stymied by the duly filed and served motion of Plaintiff to have a protective order issued in the conduct of her further examination in this action, the Defendants should point out that in November, 1973, they deposed Eula Lee Blowers for three days in her New York State Supreme Court action, with Plaintiff Blowers answering questions related to any of her claims, including the claims pending before this Court. The Supreme Court, by order of Judge Edward O. Provenzano, dated January 21, 1974, has ordered that a Justice of the Supreme Court supervise the further depositions in that action.

For these reasons, I respectfully re-

The Honorable Harold P. Burke
Re: Blowers, et al v. Lawyers Co-
operative Publishing Co., et al
April 4, 1974
Page Six

quest that Plaintiff's Motion To Compel Discovery, Extend
Time To Answer Interrogatories And For Protective Order
be granted.

Very truly yours,



Emmelyn Logan-Baldwin

ELB:jmh

cc: John B. McCroory, Esquire
NIXON, HARGRAVE, DEVANS & DOYLE
Attorneys For Defendants
Lincoln First Tower
Rochester, New York 14604

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

[Filed 10/25/74]

EULA LEE BLOWERS, individually and
on behalf of all other persons similarly
situated,

Plaintiff,

and

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Applicant for Intervention,

vs.

LAWYERS COOPERATIVE PUBLISHING COMPANY,
INC.,

Defendant.

Civil Action No.
1973-47

NOTICE OF MOTION

TO: John B. McCrory, Esq.
Nixon, Hargroave, Devans,
& Doyle
One Exchange Street
Rochester, New York 14603

Emmelyn Logan-Baldwin
Powers Building Room 510
16 Main Street West
Rochester, New York 14607

PLEASE TAKE NOTICE that upon the annexed Motion, Memorandum of Points and Authorities in support thereof, Intervenor's Complaint and Certificate of William A. Carey, attorneys for the Equal Employment Opportunity Commission, Applicant for Intervention herein, will move this Court, at the Courthouse in Rochester, New York, on the 11th day of November, 1974, at 10:00A.M. or as soon thereafter as counsel may be heard, for leave to intervene and to file its proposed Intervenor's Complaint pursuant to Rule 24 of the Federal Rules of Civil Procedure.

Dated: Washington, D. C.
October 22, 1974

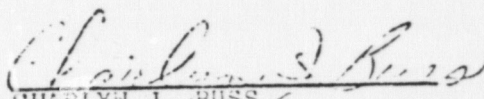
Respectfully submitted,

WILLIAM A. CAREY
General Counsel

WILLIAM L. ROBINSON
Associate General Counsel

ROBERTA V. ROMBERG
Assistant General Counsel

RICHARD B. SLOSBERG
Supervisory Trial Attorney


CHARLYN J. BUSS
Trial Attorney
Litigation Services Branch

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
1206 New Hampshire Avenue, N.W.
Washington, D. C. 20037
(202) 343-8715

Kenneth M. Davidson
District Counsel
Equal Employment Opportunity
Commission
One W. Genesee Street,
Room 1020
Buffalo, New York 14020

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

EULA LEE BLOWERS, individually and on
behalf of all other persons similarly
situated,

Plaintiff,

and

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Applicant for Intervention,

-vs-

LAWYERS COOPERATIVE PUBLISHING
COMPANY, INC.,

Defendant.

Civil Action

No. 1973-47

MOTION
TO
INTERVENE

Pursuant to the provisions of Rule 24(b)(1) of the Federal Rules of Civil Procedure and Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e, et seq. (Supp. II, 1972), hereinafter cited as Title VI, the Equal Employment Opportunity Commission moves for leave to intervene as a party-plaintiff in this action in order to assert the claims set forth in its proposed pleading, a copy of which is attached, and to secure the relief prayed for in said pleading.

As grounds for its motion the Commission asserts that:

1. A statute of the United States, Sections 705(g)(6) and 706(f)(1) of Title VII, 42 U.S.C. Sections 2000e-(4)(g)(6) and (5)(f)(I), confers upon the Commission the conditional right to intervene referred to in Rule 24(b)(1), Fed. R. Civ. P.
2. The Commission's motion to intervene is timely.
3. It has, as evidenced by its certificate filed herein, determined that this action presents a case of general public importance within the meaning of Section 706(f)(1) of Title VII.
4. The Commission's participation as a party-plaintiff in this proceeding will protect the public interest, will materially aid in the expeditious determination of the issues and will promote the public policy of eliminating and

preventing discriminatory employment practices based upon sex.

5. Intervention by the Commission will not delay or prejudice the adjudication of the rights of the original parties.

Respectfully submitted,

WILLIAM A. CAREY
General Counsel

WILLIAM L. ROBINSON
Associate General Counsel

ROBERTA V. ROMBERG
Assistant General Counsel

RICHARD B. SLOSBERG
Supervisory Trial Attorney

CHARLYN J. BUSS
Trial Attorney
Litigation Services Branch

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
1206 New Hampshire Avenue, N. W.
Washington, D. C. 20037
(202) 343-8715

Kenneth M. Davidson
District Counsel
Equal Employment
Opportunity Commission
One W. Genesee Street,
Room 1020
Buffalo, New York 14020

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

EULA LEE BLOWERS, individually and on
behalf of all other persons similarly
situated,

Plaintiff,

and

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff-Intervenor,

-vs-

LAWYERS COOPERATIVE PUBLISHING
COMPANY, INC.

Defendant.

Civil Action

No. 1973-47

INTERVENOR'S
COMPLAINT

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. Sections 451, 1343, and 1345. This is an action authorized and instituted pursuant to Sections 705(g)(6) and 706(f)(1) and (3) and (g) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e, et seq. (Supp. II, 1972), (hereinafter referred to as "Title VII").

2. The unlawful employment practices alleged below were and are now being committed within the State of New York and the Western Judicial District of New York.

PARTIES

3. Intervenor, Equal Employment Opportunity Commission (hereinafter referred to as the "Commission") is an agency of the United States charged with the administration, interpretation and enforcement of Title VII and is expressly authorized to intervene in this action by Section 705(g)(6) and Section 706(f)(1) of Title VII.

4. Plaintiff Eula Lee Blowers, is a resident of Rochester, New York, and was employed by defendant Lawyers Cooperative Publishing Company from approximately May of 1960 through December 3, 1971.

5. Since at least July 2, 1965, Defendant Lawyers Cooperative Publishing Company (hereinafter referred to as the "Company") has continuously been and is now a corporation doing business in the State of New York and in the cities of Rochester and Webster, where it is engaged in reporting, interpreting, and publishing of legal books and materials. The Company purchases and receives materials and supplies which have crossed state lines, and sells, delivers, and causes to be shipped products which cross state lines. The Company has continuously and does now employ more than twenty-five (25) employees.

6. Since at least July 2, 1965, the Company has continuously been and is now an employer in an industry affecting commerce within the meaning of Section 701(b), (g) and (h) of Title VII.

7. Within three hundred (300) days of the occurrence of the acts of which Plaintiff complains, charges were filed with the Commission alleging that the Company had engaged in unlawful employment practices under Title VII.

8. Pursuant to Plaintiff's request, the Commission advised her by letter that she was entitled to institute a civil action in the appropriate United States District Court within ninety (90) days of the receipt of said letters. This action was instituted within that time period.

STATEMENT OF CLAIM

9. Since at least July 2, 1965 and continuously until the present time, the Company has intentionally engaged in unlawful employment practices at its Rochester and Webster, New York facilities, in violation of Section 703(a) of Title VII, which include but are not limited to the following:

- a. maintaining a system of recruitment and hiring which discriminates against women because of their sex;
- b. maintaining a system of job classification and assignment which discriminates against women because of their sex;

- c. failing to transfer and promote female employees because of their sex;
- d. conducting training and apprenticeship programs which discriminate against women because of their sex;
- e. discriminating against female employees with respect to their compensation because of their sex;
- f. discriminating against female employees because of their sex with respect to maternity leave and other employee fringe benefits;
- g. discriminating against female employees because of their sex with respect to terms and conditions of employment, including but not limited to harassment, intimidation and discipline.

10. Since at least July 2, 1965 and continuously until the present time, the Company has intentionally engaged in unlawful employment practices at its Rochester and Webster facilities in New York, in violation of Section 704(a) of Title VII, which include but are not limited to the following:

- a. unlawfully discharging plaintiff Eula Lee Blowers for opposing discriminatory company policies and practices, and for refusing to take action against her female subordinates who opposed such discriminatory policies;
- b. retaliating against plaintiff Blowers by various means of harassment and intimidation because she opposed discriminatory company policies and filed charges of sex discrimination;
- c. conducting a policy of intimidation and harassment against female employees in retaliation for their opposing discriminatory

- d. discriminating against employees because they opposed practices made unlawful by Title VII or because they made a charge, testified or participated in any manner in an investigation, proceeding or hearing under Title VII.

PRAYER FOR RELIEF

WHEREFORE, The Commission respectfully prays that this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, agents, employees, successors, assigns and all persons in active concert or participation with it from

1. Engaging in any employment practice which discriminates because of sex; and
2. Engaging in any employment practice which retaliates or discriminates against employees or applicants for employment because they oppose practices made unlawful by Title VII or because they make a charge, testify, assist, or participate in any manner in an investigation, proceeding, or hearing under Title VII.

B. Order Defendant to institute and carry out policies, practices and affirmative action programs which provide equal employment opportunities for women and which eradicate the effects of Defendant's past and present unlawful employment practices.

C. Order Defendant to make whole those persons adversely affected by the unlawful employment practices described above, by providing appropriate back pay with interest, in an amount to be proved at trial and other affirmative relief necessary to eradicate the effects of Defendant's unlawful employment practices.

D. Grant such further relief as the Court deems necessary and proper.

E. Award the Commission its costs in this action.

-5-


Respectfully submitted,

WILLIAM A. CAREY
General Counsel

WILLIAM L. ROBINSON
Associate General Counsel

ROBERTA V. ROMBERG
Assistant General Counsel

RICHARD B. SLOSBERG
Supervisory Trial Attorney


CHARLYN J. BUSS
Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
1206 New Hampshire Avenue, N. W.
Washington, D.C. 20506
(202) 343-8715

Kenneth M. Davidson
District Counsel
Equal Employment
Opportunity Commission
One W. Genesee Street,
Room 1020
Buffalo, New York 14202

[Filed 11/7/74]

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

EULA LEE BLOWERS, individually, and on behalf
of all other persons similarly situated,

Plaintiff,

and

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Applicant for
Intervention

-v-

LAWYERS COOPERATIVE PUBLISHING COMPANY, INC.,
DONALD BENNETT, CHARLES DONNER AND ROBERT FIEN

Defendants

AFFIDAVIT IN SUPPORT
OF APPLICATION FOR
INTERVENTION

Civil Action No.

1973-47

State of New York, County of Monroe, City of Rochester) SS:

Eula Lee Blowers, being duly sworn, according to law, deposes
and says:

1. I am the plaintiff in the above-noted lawsuit. This affidavit is submitted by me in support of the application of the Equal Employment Opportunity Commission to intervene in this lawsuit, as provided by Title VII of the Civil Rights Act of 1964.

2. The application for intervention should be granted because the claims of the Equal Employment Opportunity Commission against the defendants, as evidenced by the complaint submitted with the motion, are the same in substance as the claims in my complaint against the defendants; there are common questions of law and fact presented by the two pleadings. The participation by the Equal Employment Opportunity Commission in this lawsuit will allow the federal agency responsible for the enforcement of the primary federal law outlawing discrimination in employment to assert, first-hand, the damage to the national

interest that the continuation of defendants' illegal employment practices effects. The application for intervention is timely; no interest of any party will be prejudiced by the granting of the application. While I have had motions pending since March, 1973 to compel the defendants to participate in discovery, no decision has been reached on these motions and no discovery has taken place, except the discovery volunteered by me. While testimony has been completed on the hearing to determine the class with the participation of the Equal Employment Opportunity Commission as amicus curiae, submission of the issues has not been made since, I am informed and believe, from talking with my attorney, copies of the transcript of the second session of the hearing have just been made available to the attorneys.

3. From an examination of my complaint filed herein and the complaint submitted with the motion of the Equal Employment Opportunity Commission, it is evident that the investigation of my complaint by the Equal Employment Opportunity Commission has led them to make the same allegations against the defendants of illegal employment discrimination that I have made and to request, in substance, the same relief that I have requested from that discrimination. I brought this action as a class action because of the company-wide, class-wide nature of the discrimination. I have reiterated for the court's benefit, in subsequent pleadings, see particularly my motion for protective order, to compel discovery, etc., dated March 22, 1973, my affidavit of April 1, 1973 in further support of that motion, and my motion filed on or about April 6, 1973 to add ten other employees and the Genesee Valley Chapter National Organization For Women as named party plaintiffs and

members of the class, the wide effect of defendants' discrimination.

4. The Equal Employment Opportunity Commission, in reaching its decision to intervene in this lawsuit, has certified that this lawsuit is of "general public importance" as defined in Title VII of the Civil Rights Act of 1964. I know from the proof produced before this court in Lawyers Cooperative Publishing Company v. Schlesinger, et al, Civil Action No. 1974-212, in which the court allowed me and all the other persons and the National Organization For Women having Title VII claims pending before this court, to intervene, that defendant Lawyers Cooperative Publishing Company is the second largest publisher of legal books in the country, if not the largest such publisher. Understandably, it should be of great concern to the Equal Employment Opportunity Commission for a leading publisher of legal materials to be in open, flagrant violation of the laws against employment discrimination. The Equal Employment Opportunity Commission has a duty to see that the laws and the national policy effecting those laws to end employment discrimination are obeyed and the court should therefore grant the application of the Equal Employment Opportunity Commission to intervene in the interest of its securing that objective with respect to defendant Lawyers Cooperative Publishing Company, a major lawbook publisher.

5. The application of the Equal Employment Opportunity Commission to intervene is timely. The intervenor applicant has been apprised of the status of these cases and has participated as amicus curiae from the time of the filing of the first motions by me in March of 1973. There would be no delay occasioned by the granting of this motion since the intervenor applicant, because of its past amicus status,

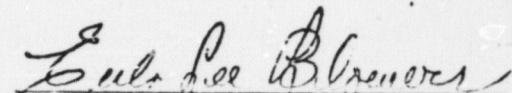
will need no additional time to familiarize itself with the pleadings or proceedings. While I have motions pending to compel the defendants to participate in discovery, namely motion of March 22, 1973, motion of February 11, 1974 renewing previous motion to compel and requesting additional relief, and further motion to compel discovery dated May 7, 1974, the court has not yet disposed of these motions. Nor has the court yet reached decision on the definition of the class, though proof has been taken on the question and the issue will be submitted to the court at the completion of briefing.

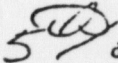
6. I am informed and believe, from discussion with my attorney, that the Equal Employment Opportunity Commission, because of its statutory responsibility to interpret, apply and enforce Title VII of the Civil Rights Act of 1964, can make a special and unique contribution to this litigation. The intervenor applicant has an expertise developed by the mandate of Congress in the enactment of Title VII as to all questions which this court must consider - definition of class, scope of discovery, proof of discrimination, etc. The intervenor applicant should be an aid to all parties and the court in resolving these questions of initial impression in this district.

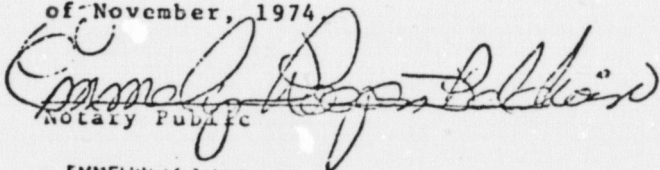
7. Finally, the granting of the Equal Employment Opportunity Commission intervention application will lay to rest the argument by the defendants, not pleaded but suggested in their brief of April 23, 1973, that this lawsuit ought not proceed as a class action because the "time and resources" of my counsel are "severely limited" in that she is a sole practitioner and "substantial time and effort" are required to "adequately prosecute an employment discrimination class action" and places a "severe burden on any law office, let alone a
such an action

sole practitioner." There is not and has not been any substance to that argument. My counsel has carried persistently and effectively the full burden of this lawsuit and all the companion Title VII lawsuits against the defendants and has as well represented us as intervenors in Lawyers Cooperative Publishing Company v. Schlesinger, et al. My counsel's efforts in writing, pleading and advocating before this court have met the output of defendants' representation by the largest, hundred-person-plus law firm in the City of Rochester, appearing on behalf of the defendants. The addition of the Equal Employment Opportunity Commission as a plaintiff will provide further assurance to the court that there will be no time when the interests of the plaintiffs and of the class they represent are not fully and vigorously espoused.

For these reasons, I respectfully request that the court grant the application of the Equal Employment Opportunity Commission to intervene in this lawsuit.


EULA LEE BLOWERS

Sworn to before me this  day
of November, 1974


Notary Public

EMMELYN L. TAYLOR
NOTARY PUBLIC, State of New York
Commission Expires June 30, 1975

UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF NEW YORK

EULA LEE BLOWERS, individually and on
behalf of all other persons similarly
situated,

Plaintiff,

-vs-

LAWYERS COOPERATIVE PUBLISHING COMPANY,
INC., DONALD BENNETT, CHARLES DONNER
and ROBERT FEIN,

Defendants.

:
:
:
: AFFIDAVIT IN
: OPPOSITION TO
: MOTION TO
: INTERVENE
:
:
:

STATE OF NEW YORK:
COUNTY OF MONROE : SS:
CITY OF ROCHESTER:

DONALD S. BENNETT, being duly sworn, deposes and says:

1. I am a Vice President and Director of Personnel
of The Lawyers Cooperative Publishing Company and am familiar
with the facts of this action.

2. At no time has the United States Equal Employment
Opportunity Commission investigated any charge of discrimination
against The Lawyers Cooperative Publishing Company.

3. No representative of the United States Equal
Employment Opportunity Commission has ever contacted me or any
other representative of The Lawyers Cooperative Publishing Company
with reference to sex discrimination charges pending before
the EEOC or now pending before the United States District Court
for the Western District of New York, including the charge of
Eula Lee Blowers.

Donald S. Bennett
Donald S. Bennett

Sworn to before me this

7th day of November, 1974.

James J. Marshall,
Notary Public, Maine Co.
Comm. # 3130175

UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF NEW YORK

EULA LEE BLOWERS, individually and on behalf of all other persons similarly situated,

Plaintiff,

-vg-

**LAWYERS COOPERATIVE PUBLISHING
COMPANY, INC., DONALD BENNETT,
CHARLES DONNER and ROBERT FIEN,**

Defendants.

AFFIRMATION IN
OPPOSITION TO
MOTION TO
INTERVENE

CIV 1973-47

STATE OF NEW YORK:
COUNTY OF MONROE : SS:
CITY OF ROCHESTER:

JOHN B. McCrory, being duly sworn, deposes and
says:

1. I am a member of the firm of Nixon, Hargrave, Devans & Doyle, attorneys for defendants herein.
2. Prior to November, 1972, plaintiff Blowers filed a sex discrimination charge against defendants with the United States Equal Employment Opportunity Commission (hereinafter "EEOC").
3. Upon information and belief, after plaintiff filed a charge with the EEOC, the EEOC had no opportunity to investigate the charge. On the contrary, plaintiff exercised her first opportunity to request a "right to sue notice" so that

she could bring an action in Federal Court, rather than seeking the help of the EEOC in conciliating this action.

4. Plaintiff filed her lawsuit in this Court on January 29, 1973.

5. Defendants served their answer on February 20, 1973.

6. Defendants served their first interrogatories on February 23, 1973; deposition of plaintiff began on March 14, 1973; numerous discovery motions have been heard by this Court and extensive memoranda and briefs speaking of those motions have been submitted to this Court.

7. As early as April 27, 1973, the EEOC appeared in this action as amicus curiae.

8. The motion of the EEOC to intervene in this action should be denied because:

- (a) The EEOC complaint adds no new relief nor would protect any interest not already protected in this action.
- (b) Upon information and belief, the EEOC did not investigate plaintiff Blowers' charge of discrimination. Therefore, the addition of the EEOC as a party will bring to the Court no facts, investigation, or information that would not be available through plaintiff.

(c) Despite the conclusory allegation of the EEOC's affidavit in support of its motion to intervene, addition of the EEOC will delay the adjudication of this lawsuit:

- (1) The presence of another party in this action will further extend the course of discovery which has already been too long delayed. If the EEOC is to add to this lawsuit, it must be assumed that it will re-open or duplicate discovery that has already occurred;
- (2) Both at deposition and trial, the EEOC, as an additional party will presumably seek to examine and cross-examine witnesses.
- (3) Since the EEOC does not have counsel in Rochester, further scheduling conflicts and delays will result from the EEOC's travel schedule.
- (4) The EEOC is likely to pursue appeals which it may think are important, but which delay this action.

(d) Addition of the EEOC as a party will prejudice defendants:

- (1) Since the EEOC is not content to remain as amicus curiae in this action, it must be seeking to intervene so that it can re-open and re-litigate the class action hearings.
- (2) Defendants will have to face counsel for two parties during examination and cross-examination of witnesses during trial. Defendants, in effect, will be "double teamed".
- (3) Plaintiffs and/or the EEOC have and will continue to use intervention as a means of harassing defendants in the press.

9. It appears from the papers of the EEOC that its function as an advisor and expert can be best served as amicus curiae rather than as a party.

Sworn to before me
November 7, 1974.

James H. Morgenstern

John B. McCrory
JOHN B. MCCRORY
JAMES H. MORGENSTERN
Notary Public in the State of New York
MONROE COUNTY, N.Y.
Commission Expires March 30, 1975

UNITED STATES DISTRICT COURT [Filed 2/6/75]
FOR THE WESTERN DISTRICT OF NEW YORK

EULA LEE BLOWERS, INDIVIDUALLY AND ON BEHALF OF
ALL OTHER PERSONS SIMILARLY SITUATED,

Plaintiff,

and

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Applicant for Intervention,

vs.

LAWYERS COOPERATIVE PUBLISHING COMPANY, INC.,
DONALD BENNETT, CHARLES DONNER, and TOBERT
FEIN, Defendants.

Civil Action
No. 1973-47

PATRICIA LOUGHNEY, and the GENESEE VALLEY
CHAPTER OF THE NATIONAL ORGANIZATION FOR WOMEN,

Plaintiffs,

and

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Applicant for Intervention,

vs.

LAWYERS COOPERATIVE PUBLISHING COMPANY, INC.,
Defendant.

Civil Action
No. 1973-238

MARY NAGEOTTE, ET AL.,

Plaintiffs,

and

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Applicant for Intervention,

vs.

LAWYERS COOPERATIVE PUBLISHING COMPANY, INC.,
Defendant.

Civil Action
No. 1973-246

NOTICE OF MOTION

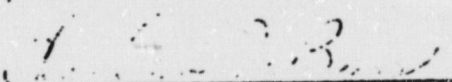
To: John B. McCrory, Esq.
Nixon, Hargrave, Devans, & Doyle
One Exchange Street
Rochester, New York 14603

Emmelyn Logan-Baldwin, Esq.
Powers Building Room 510
16 Main Street West
Rochester, New York 14607

PLEASE TAKE NOTICE that upon the annexed Motions, Intervenor's Complaints and Certificates of William A. Carey, General Counsel, attorneys for the Equal Employment Opportunity Commission, Applicant for Intervention herein, will move this Court, at the Courthouse in Rochester, New York, on the 10th day of February, 1975, at 10:00 A.M. or as soon thereafter as counsel may be heard, for leave to intervene in the Loughney case and the Nageotte case, for leave to file its proposed Intervenor's Complaints pursuant to Rule 24 of the Federal Rules of Civil Procedure, and to consolidate the above-styled three cases, or in the alternative, to add as party-plaintiffs in the Blowers class action all plaintiffs of the Loughney and Nageotte cases.

Dated: Washington, D.C.
February 4, 1975

Respectfully submitted,
WILLIAM A. CAREY
General Counsel
WILLIAM L. ROBINSON
Associate General Counsel
ROBERTA V. Romberg
Assistant General Counsel
Richard B. Slosberg
Supervisory Trial Attorney


CHARLYN J. BUSS
BARRY J. BENNETT
Trial Attorneys
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
1206 New Hampshire Avenue, N.W.
Washington, D.C. 20506
(202) 343-8715

Kenneth M. Davidson
District Counsel

Equal Employment Opportunity Commission

EULA LEE BLOWERS, INDIVIDUALLY AND ON BEHALF OF
ALL OTHER PERSONS SIMILARLY SITUATED,

Plaintiff, .

and

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Applicant for Intervention,

vs.

LAWYERS COOPERATIVE PUBLISHING COMPANY, INC.,
DONALD BENNETT, CHARLES DONNER, and ROBERT
FEIN,

Defendants.

Civil Action
No. 1973-47

PATRICIA LOUGHNEY, and the GENESEE VALLEY
CHAPTER OF THE NATIONAL ORGANIZATION FOR WOMEN,

Plaintiffs,

and

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Applicant for Intervention,

vs.

LAWYERS COOPERATIVE PUBLISHING COMPANY, INC.,

Defendant.

Civil Action
No. 1973-236

MARY NAGEOTTE, VINCENZA LINDA GRICE, PASHA BAKER
PAT PRUSAK, ELLEN MICHELSON, ELIZABETH ARES,
MARGARET MOULTON, BEVERLY NEATROUR, VIRGINIA
SWEENEY, and the GENESEE VALLEY CHAPTER OF THE
NATIONAL ORGANIZATION OF WOMEN,

Plaintiffs,

and

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Applicant for Intervention,

vs.

LAWYERS COOPERATIVE PUBLISHING COMPANY, INC.,

Defendant.

Civil Action
No. 1973-346

MOTION TO CONSOLIDATE
OR IN THE ALTERNATIVE, TO ADD ALL PLAINTIFFS AS
PARTIES IN THE BLOWERS ACTION

Pursuant to Rule 12(a) of the Federal Rules of Civil Procedure, the Equal Employment Opportunity Commission (EEOC) respectfully moves this Court for an Order consolidating the three above-styled actions against the Lawyers Cooperative Publishing Company, or, in the alternative, for an Order adding the plaintiffs of the Loughney case and the Hagette case as party-plaintiffs in the Blowers class action.

The grounds for the Motion are as follows:

1. The three actions involve nearly identical issues of sex discrimination arising under Title VII of the Civil Rights Act of 1964, 42 U.S.C. et seq. and involve the same defendant, Lawyers Cooperative Publishing Company.
2. All three civil actions involve common issues of law and fact.
3. Consolidation or Adding of Party-Plaintiffs would work no prejudice on any party.
4. Consolidation or Adding of Party-Plaintiffs would expedite the resolution of these cases in that either would prevent duplication of time and effort by all parties and the Court. Most immediately, it would prevent duplication of discovery which is scheduled to begin February 18, 1975.

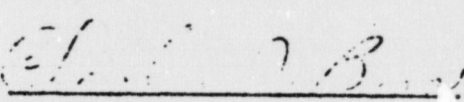
Respectfully submitted,

WILLIAM A. CAREY
General Counsel

WILLIAM L. ROBINSON
Associate General Counsel

Roberta V. ROMBERG
Assistant General Counsel

RICHARD B. SLOSBERG
Supervisory Trial Attorney


CHARLYN J. BUSS
BARRY J. BENNETT
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Washington, D.C. 20506

KENNETH M. DAVIDSON
District Counsel
Equal Employment
Opportunity Commission
One W. Genesee Street, Rm. 1020
Buffalo, New York 14202

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

PATRICIA LOUGHEEY, ET AL.,

Plaintiff,

and

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

Applicant for Intervention,

vs.

LAWYERS COOPERATIVE PUBLISHING
COMPANY, INC.,

Defendant.

Civil Action No. 1972-238

MOTION TO INTERVENE

Pursuant to the provisions of Rule 24(b)(1) of the Federal Rules of Civil Procedure and Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e, et seq. (Supp. II, 1972), hereinafter cited as Title VII, the Equal Employment Opportunity Commission moves for leave to intervene as a party-plaintiff in this action in order to assert the claims set forth in its proposed pleading, a copy of which is attached, and to secure the relief prayed for in said pleading.

As grounds for its motion the Commission asserts that:

1. A statute of the United States, Sections 705(g)(6) and 706(f)(1) of Title VII, 42 U.S.C. Sections 2000e-(4)(g)(6) and (5)(f)(1), confers upon the Commission the conditional right to intervene referred to in Rule 24(b)(1), Fed. R. Civ. P.
2. The Commission's motion to intervene is timely.
3. It has, as evidenced by its certificate filed herein, determined that this action presents a case of general public importance within the meaning of Section 706(f)(1) of Title VII.
4. The Commission's participation as a party-plaintiff in this proceeding will protect the public interest, will materially aid in the expeditious determination of the issues and will promote the public policy of eliminating and preventing discriminatory employment practices based upon sex.

5. Intervention by the Commission will not delay or prejudice the adjudication of the rights of the original parties.


Respectfully submitted,

WILLIAM A. CAREY
General Counsel

WILLIAM L. ROBINSON
Associate General Counsel

ROBERTA V. ROMBERG
Assistant General Counsel

RICHARD B. SLOSBERG
Supervisory Trial Attorney


CHARLYN J. BUSS
BARRY J. BENNETT
Trial Attorneys
Litigation Services Branch

EQUAL EMPLOYMENT OPPORTUNITY
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Kenneth M. Davidson
District Counsel
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One W. Genesee Street,
Room 1020
Buffalo, New York 14200

UNITED STATES DISTRICT COURT
FOR THE WESTERN DIVISION OF NEW YORK

PATRICIA EDGEMONT and CHARLES F. FLETCHER
CHAPTER OF THE NATIONAL ORGANIZATION
FOR WOMEN,

Plaintiffs,

and

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Applicant for Intervention

v.

LAWYERS COOPERATIVE PUBLISHING
COMPANY, INC.

Defendant.

CIVIL ACTION NO. 1973-238

CERTIFICATE

The U.S. Equal Employment Opportunity Commission has authorized the undersigned, General Counsel of the Commission, to certify to the Court that the Commission has determined this action to be of general public importance in accordance with the provisions of Section 706(f)(1) of Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, 42 U.S.C. Section 2000e-5(f)(1) (Supp. II, 1972).

William A. Carey
WILLIAM A. CAREY
General Counsel

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

PATRICIA LOUGHNEY, ET AL.,

Plaintiffs,

and

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

Applicant for Intervention,

vs.

LAWYERS COOPERATIVE PUBLISHING
COMPANY, INC.,

Defendant.

Civil Action No.
1973-238

INTERVENOR'S COMPLAINT

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. Sections 451, 1343, and 1345. This is an action authorized and instituted pursuant to Sections 705(g)(6) and 706(f)(1) and (3) and (g) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e, et seq. (Supp. II, 1972), (hereinafter referred to as "Title VII").

2. The unlawful employment practices alleged below were and are now being committed within the State of New York and the Western Judicial District of New York.

PARTIES

3. Intervenor, Equal Employment Opportunity Commission (hereinafter referred to as the "Commission") is an agency of the United States charged with the administration, interpretation and enforcement of Title VII and is expressly authorized to intervene in this action by Section 705(g)(6) and Section 706(f)(1) of Title VII.

4. Plaintiff Patricia Loughney, is a resident of the State of New York, and is employed by defendant Lawyers Cooperative Publishing Company.

5. Since at least July 2, 1965, Defendant lawyers Cooperative Publishing Company (hereinafter referred to as the "Company") has continuously been and is now a corporation doing business in the State of New York and in the cities of Rochester and Webster, where it is engaged in reporting, interpreting, and publishing of legal books and materials. The Company purchases and receives materials and supplies which have crossed state lines, and sells, delivers, and causes to be shipped products which cross state lines. The Company has continuously and does now employ more than twenty-five (25) employees.

6. Since at least July 2, 1965, the Company has continuously been and is now an employer in an industry affecting commerce within the meaning of Section 701(b), (g) and (h) of Title VII.

7. Within three hundred (300) days of the occurrence of the acts of which Plaintiff complains, charges were filed with the Commission alleging that the Company had engaged in unlawful employment practices under Title VII.

8. Pursuant to Plaintiff's request, the Commission advised her by letter that she was entitled to institute a civil action in the appropriate United States District Court within ninety (90) days of the receipt of said letters. This action was instituted within that time period.

STATEMENT OF CLAIM

9. Since at least July 2, 1965 and continuously until the present time, the Company has intentionally engaged in unlawful employment practices at its Rochester and Webster, New York facilities, in violation of Section 703(a) of Title VII, which include but are not limited to the following:

- a. maintaining a system of recruitment and hiring which discriminates against women because of their sex;
- b. maintaining a system of job classification and assignment which discriminates against women because of their sex;

- c. failing to transfer and promote female employees because of their sex;
- d. conducting training and apprenticeship programs which discriminate against women because of their sex;
- e. discriminating against female employees with respect to their compensation because of their sex;
- f. discriminating against female employees because of their sex with respect to maternity leave and other employee fringe benefits;
- g. discriminating against female employees because of their sex with respect to terms and conditions of employment, including but not limited to harassment, intimidation and discipline.

10. Since at least July 2, 1965 and continuously until the present time, the Company has intentionally engaged in unlawful employment practices at its Rochester and Webster facilities in New York, in violation of Section 704(a) of Title VII, which include but are not limited to the following:

- a. conducting a policy of intimidation and harassment against female employees in retaliation for their opposing discriminatory company policies;
- b. discriminating against employees because they opposed practices made unlawful by Title VII or because they made a charge, testified or participated in any manner in an investigation, proceeding or hearing under Title VII.

PRAYER FOR RELIEF

WHEREFORE, The Commission respectfully prays that this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, agents, employees, successors, assigns and all persons in active concert or participation with it from

- 1. Engaging in any employment practice which discriminates because of sex; and
- 2. Engaging in any employment practice which retaliates or discriminates against employees or applicants for employment because they oppose practices made unlawful by Title VII or because they make a charge, testify, assist, or participate in any manner in an investigation, proceeding, or hearing under Title VII.

B. Order Defendant to institute and carry out policies, practices and affirmative action programs which provide equal employment opportunities for women and which eradicate the effects of Defendant's past and present unlawful employment practices.

C. Order Defendant to make whole those persons adversely affected by the unlawful employment practices described above, by providing appropriate back pay with interest, in an amount to be proved at trial and other affirmative relief necessary to eradicate the effects of Defendant's unlawful employment practices.

D. Grant such further relief as the Court deems necessary and proper.

E. Award the Commission its costs in this action.

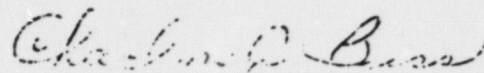
Respectfully submitted,

WILLIAM A. CAREY
General Counsel

WILLIAM L. ROBINSON
Associate General Counsel

ROBERTA V. ROMBERG
Assistant General Counsel

RICHARD B. SLOSBERG
Supervisory Trial Attorney



CHARLYN J. BUSS
BARRY J. BENNETT
Trial Attorneys

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(202) 343-8715

Kenneth M. Davidson
District Counsel
Equal Employment Opportunity
Commission
One W. Genesee Street,
Room 1020
Buffalo, New York 14020

EULA LEE BLOWERS, individually and on
behalf of all other persons similarly
situated,

Plaintiff,

and

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Applicant for Intervention,

-vs-

LAWYERS COOPERATIVE PUBLISHING
COMPANY, INC.,

Defendant.

Civil Action

No. 1973-47

NOTICE
TO
INTERVENE

Pursuant to the provisions of Rule 24(b)(1) of the Federal Rules of Civil Procedure and Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e, et seq. (Supp. II, 1972), hereinafter cited as Title VI, the Equal Employment Opportunity Commission moves for leave to intervene as a party-plaintiff in this action in order to assert the claims set forth in its proposed pleading, a copy of which is attached, and to secure the relief prayed for in said pleading.

As grounds for its motion the Commission asserts that:

1. A statute of the United States, Sections 705(g)(6) and 706(f)(1) of Title VII, 42 U.S.C. Sections 2000e-(4)(g)(6) and (5)(f)(I), confers upon the Commission the conditional right to intervene referred to in Rule 24(b)(1), Fed. R. Civ. P.
2. The Commission's motion to intervene is timely.
3. It has, as evidenced by its certificate filed herein, determined that this action presents a case of general public importance within the meaning of Section 706(f)(1) of Title VII.
4. The Commission's participation as a party-plaintiff in this proceeding will protect the public interest, will materially aid in the expeditious determination of the issues and will promote the public policy of eliminating and

EULA LEE BLOWERS, individually and on
behalf of all other persons similarly
situated,

Plaintiff,

and

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Applicant for Intervention,

-vs-

LAWYERS COOPERATIVE PUBLISHING
COMPANY, INC.,

Defendant.

Civil Action

No. 1973-47

NOTICE
TO
INTERVENE

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2. The Commission's motion to intervene is timely.
3. It has, as evidenced by its certificate filed herein, determined that this action presents a case of general public importance within the meaning of Section 706(f)(1) of Title VII.
4. The Commission's participation as a party-plaintiff in this proceeding will protect the public interest, will materially aid in the expeditious determination of the issues and will promote the public policy of eliminating and

preventing discriminatory employment practices based upon sex.

5. Intervention by the Commission will not delay or prejudice the adjudication of the rights of the original parties.

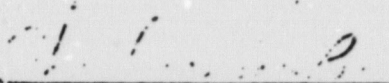
Respectfully submitted,

WILLIAM A. CAREY
General Counsel

WILLIAM L. ROBINSON
Associate General Counsel

ROBERTA V. ROMBERG
Assistant General Counsel

RICHARD B. SLOSBERG
Supervisory Trial Attorney


CHARLYN J. BUSS
Trial Attorney
Litigation Services Branch

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Kenneth M. Davidson
District Counsel
Equal Employment
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One W. Genesee Street,
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Buffalo, New York 14020

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

MARY HAGEOTTE, et al.,

Plaintiffs,

and

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Applicant for Intervention

v.

LAWYERS COOPERATIVE PUBLISHING
COMPANY, INC.,

Defendant.

CIVIL ACTION NO.
1973-346

MOTION TO INTERVENE

Pursuant to the provisions of Rule 24(b)(1) of the Federal Rules of Civil Procedure and Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e, et seq. (Supp. II, 1972), hereinafter cited as Title VII, the Equal Employment Opportunity Commission moves for leave to intervene as a party-plaintiff in this action in order to assert the claims set forth in its proposed pleading, a copy of which is attached, and to secure the relief prayed for in said pleading.

As grounds for its motion the Commission asserts that:

1. A statute of the United States, Sections 705(g)(6) and 706(f)(1) of Title VII, 42 U.S.C. Sections 2000e-(4)(g)(6) and (b)(f)(1), confers upon the Commission the conditional right to intervene referred to in Rule 24(b)(1), Fed. R. Civ. P.

2. The Commission's motion to intervene is timely.

3. It has, as evidenced by its certificate filed herein, determined that this action presents a case of general public importance within the meaning of Section 706(f)(1) of Title VII.

4. The Commission's participation as a party-plaintiff in this proceeding will protect the public interest, will materially aid in the expeditious determination of the issues and will promote the public policy of eliminating and preventing

Discriminatory employment practices based upon sex.

5. Intervention by the Commission will not delay or prejudice the adjudication of the rights of the original parties.

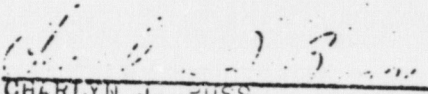
Respectfully submitted,

WILLIAM A. CAREY
General Counsel

WILLIAM L. ROBINSON
Associate General Counsel

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Supervisory Trial Attorney


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Kenneth M. Davidson
District Counsel
Equal Employment Opportunity
Commission
One W. Genesee Street,
Room 1020
Buffalo, New York 14200

UNITED STATES DISTRICT COURT
FOR THE WESTERN DIVISION OF NEW YORK

MARY MAGNOTTE, et al.,

Plaintiffs,

and

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Applicant for Intervention,

v.

LAWYERS COOPERATIVE PUBLISHING
COMPANY, INC.

Defendant.

CIVIL ACTION NO.
1973-346

CERTIFICATE

The U.S. Equal Employment Opportunity Commission has authorized the undersigned, General Counsel of the Commission, to certify to the Court that the Commission has determined this action to be of general public importance in accordance with the provisions of Section 706(f)(1) of Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, 42 U.S.C. Section 2000e-5(f)(1) (Supp. II, 1972).

William A. Carey
WILLIAM A. CAREY
General Counsel

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

MARY NAGEOTTE, et al.,

Plaintiffs,

and

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff-Intervenor,

vs.

LAWYERS COOPERATIVE PUBLISHING
COMPANY, INC.

Defendant.

Civil Action No.
1973-346

INTERVENOR'S
COMPLAINT

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. Sections 451, 1343, and 1345. This is an action authorized and instituted pursuant to Sections 705(g)(6) and 706(f)(1) and (3) and (g) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e, et seq. (Supp. II, 1972), (hereinafter referred to as "Title VII").

2. The unlawful employment practices alleged below were and are now being committed within the State of New York and the Western Judicial District of New York.

PARTIES

3. Intervenor, Equal Employment Opportunity Commission (hereinafter referred to as the "Commission") is an agency of the United States charged with the administration, interpretation and enforcement of Title VII and is expressly authorized to intervene in this action by Section 705(g)(6) and Section 706(f)(1) of Title VII.

4. Plaintiffs Mary Nageotte, et al., are residents of the State of New York, and are or have been employed by defendant Lawyers Cooperative Publishing Company.

5. Since at least July 2, 1965, Defendant Lawyers Cooperative Publishing Company (hereinafter referred to as the "Company") has continuously been and is now a corporation doing business in the State of New York and in the cities of Rochester and Webster, where it is engaged in reporting, interpreting, and publishing of legal books and materials. The Company purchases and receives materials and supplies which have crossed state lines, and sells, delivers, and causes to be shipped products which cross state lines. The Company has continuously and does now employ more than twenty-five (25) employees.

6. Since at least July 2, 1965, the Company has continuously been and is now an employer in an industry affecting commerce within the meaning of Section 701(b), (g) and (h) of Title VII.

7. Within three hundred (300) days of the occurrence of the acts of which Plaintiff complains, charges were filed with the Commission alleging that the Company had engaged in unlawful employment practices under Title VII.

8. Pursuant to Plaintiffs' request, the Commission advised them by letter that they were entitled to institute civil actions in the appropriate United States District Court within ninety (90) days of the receipt of said letters. This action was instituted within that time period.

STATEMENT OF CLAIM

9. Since at least July 2, 1965, and continuously until the present time, the Company has intentionally engaged in unlawful employment practices at its Rochester and Webster, New York facilities, in violation of Section 703(a) of Title VII, which include but are not limited to the following:

- a. maintaining a system of recruitment and hiring which discriminates against women because of their sex;
- b. maintaining a system of job classification and assignment which discriminates against women because of their sex;

- c. failing to transfer and promote female employees because of their sex;
- d. conducting training and apprenticeship programs which discriminate against women because of their sex;
- e. discriminating against female employees with respect to their compensation because of their sex;
- f. discriminating against female employees because of their sex with respect to maternity leave and other employee fringe benefits;
- g. discriminating against female employees because of their sex with respect to terms and conditions of employment, including but not limited to harassment, intimidation and discipline.

10. Since at least July 2, 1965 and continuously until the present time, the Company has intentionally engaged in unlawful employment practices at its Rochester and Webster facilities in New York, in violation of Section 704(a) of Title VII, which include but are not limited to the following:

- a. conducting a policy of intimidation and harassment against female employees in retaliation for their opposing discriminatory company policies and practices;
- b. discriminating against employees because they opposed practices made unlawful by Title VII or because they made a charge, testified or participated in any manner in an investigation, proceeding or hearing under Title VII.

PRAYER FOR RELIEF

WHEREFORE, The Commission respectfully prays that this Court:

A. Grant a permanent injunction enjoining the Company, its officers, agents, employees, successors, assigns and all persons in active concert or participation with it from

- 1. Engaging in any employment practice which discriminates because of sex; and
- 2. Engaging in any employment practice which retaliates or discriminates against employees or applicants for employment because they oppose practices made unlawful by Title VII or because they make a charge, testify, assist, or participate in any manner in an investigation, proceeding, or hearing under Title VII.

B. Order the Company to institute and carry out policies, practices and affirmative action programs which provide equal employment opportunities for women and which eradicate the effects of Company's past and present unlawful employment practices.

C. Order the Company to make whole those persons adversely affected by the unlawful employment practices described above, by providing appropriate back pay with interest, in an amount to be proved at trial and other affirmative relief necessary to eradicate the effects of Company's unlawful employment practices.

D. Grant such further relief as the Court deems necessary and proper.

E. Award the Commission its costs in this action.

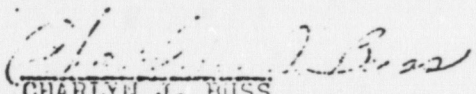
Respectfully submitted,

WILLIAM A. CAREY
General Counsel

WILLIAM L. ROBINSON
Associate General Counsel

ROBERTA V. ROMBERG
Assistant General Counsel

RICHARD B. SLOSBERG
Supervisory Trial Attorney


CHARLYN J. BUSS
BARRY J. BENNETT
Trial Attorneys

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
1206 New Hampshire Avenue, N. W.
Washington, D. C. 20506
(202) 343-8715

Kenneth M. Davidson
District Counsel
Equal Employment Opportunity
Commission
One W. Genesee Street
Room 1020
Buffalo, New York 14020

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

EULA LEE BLOWERS, individually and on
behalf of all other persons similarly
situated,

Plaintiff,

and

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Applicant for Intervention,

-vs-

LAWYERS COOPERATIVE PUBLISHING
COMPANY, INC.,

Defendant.

Civil Action

No. 1973-47

MOTION
TO
INTERVENE

Pursuant to the provisions of Rule 24(b)(1) of the Federal Rules of Civil Procedure and Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e, et seq. (Supp. II, 1972), hereinafter cited as Title VI, the Equal Employment Opportunity Commission moves for leave to intervene as a party-plaintiff in this action in order to assert the claims set forth in its proposed pleading, a copy of which is attached, and to secure the relief prayed for in said pleading.

As grounds for its motion the Commission asserts that:

1. A statute of the United States, Sections 705(g) (6) and 706(f)(1) of Title VII, 42 U.S.C. Sections 2000e-(4) (g)(6) and (5)(f)(I), confers upon the Commission the conditional right to intervene referred to in Rule 24(b)(1), Fed. R. Civ. P.
2. The Commission's motion to intervene is timely.
3. It has, as evidenced by its certificate filed herein, determined that this action presents a case of general public importance within the meaning of Section 706(f)(1) of Title VII.
4. The Commission's participation as a party-plaintiff in this proceeding will protect the public interest, will materially aid in the expeditious determination of the issues and will promote the public policy of eliminating and

preventing discriminatory employment practices based upon sex.

5. Intervention by the Commission will not delay or prejudice the adjudication of the rights of the original parties.

Respectfully submitted,

WILLIAM A. CAREY
General Counsel

WILLIAM L. ROBINSON
Associate General Counsel

ROBERTA V. ROMBERG
Assistant General Counsel

RICHARD B. SLOSBERG
Supervisory Trial Attorney

CHARLYN J. BUSS
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Litigation Services Branch

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Buffalo, New York 14020

[Filed 2/24/75]

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

EULA LEE BLOWERS, individually and on
behalf of all other persons similarly
situated,

Plaintiff

- vs -

CIVIL 1973-47

LAWYERS COOPERATIVE PUBLISHING COMPANY,
INC., DONALD BENNETT, CHARLES DONNER
and ROBERT FEIN;

Defendants

Emelyn S. Logan-Baldwin
510 Powers Building
Rochester, N.Y. 14614
Attorney for plaintiff

Nixon, Hargrave, Devans & Doyle
Lincoln First Tower
Rochester, N.Y. 14603
Attorneys for defendants

Charlyn J. Buss
Trial Attorney
Equal Employment Opportunity Commission
1206 New Hampshire Avenue, N.W.
Washington, D.C. 20506

By notice of motion filed October 25, 1974
Equal Employment Opportunity Commission moves for leave
to intervene as a plaintiff.

The complaint was filed January 29, 1973. The
defendants answered on February 20, 1973. The Commission
was allowed to appear as amicus curiae on April 27, 1973.

Intervention would not protect any interest not already protected. The Commission expressly recognizes and emphasizes in its memorandum in reply to defendant's opposition to this motion (page 3) that it considers plaintiff's counsel competent to litigate this action. There is a danger that intervention may reopen or duplicate discovery that has already occurred. There is a danger that intervention may result in different views between plaintiff's counsel and the Commission, particularly as to possible appeals, which will delay the action. On page 2 of ~~the~~ ^{the} memorandum referred to above, it is stated that the resolution of these questions (of general public importance) should not be left to the predilections of private parties.

If the Commission is desirous of making available to plaintiff's counsel its expertise and advice, it may do so as amicus curiae.

The motion to intervene is in all respects denied in the exercise of discretion.

SO ORDERED.

By letter dated February 17, 1975 to the undersigned from plaintiff's attorney, the plaintiff joins in the arguments of the Commission in its memorandum in

support of the Commission's motion to consolidate the three actions pending in this court against Lawyers Cooperative Publishing Company, Inc., viz, Blowers vs. Lawyers Cooperative Publishing Company, Inc., et al, Civil 1973-47; Loughney and the Genesee Valley Chapter of the National Organization for Women vs. Lawyers Cooperative Publishing Company, Inc., Civil 1973-238; and Nageotte et al vs. Lawyers Cooperative Publishing Company, Inc., Civil 1973-346; or in the alternative for an order adding the plaintiffs in the Loughney case and the Nageotte case as party plaintiffs in the Blowers class action.

Eula Lee Blowers vs. Lawyers Cooperative Publishing Company, Inc., et al, Civil 1973-47; Patricia Loughney et al vs. Lawyers Cooperative Publishing Company, Inc., Civil 1973-238; and Mary Nageotte et al vs. Lawyers Cooperative Publishing Company, Inc., Civil 1973-346, are consolidated for all purposes.

SO ORDERED.

Harold P. Burke

HAROLD P. BURKE
United States District Judge

February 21, 1975.

[Filed 3/18/75]

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NEW YORK

EULA LEE BLOWERS, individually and on behalf
of all other persons similarly situated,

Plaintiff,

-v-

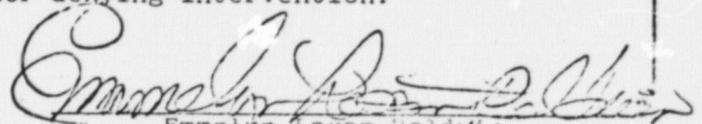
LAWYERS COOPERATIVE PUBLISHING COMPANY, INC.,
DONALD BENNETT, CHARLES DONNER and ROBERT FEIN,

Defendants.

)
)
)
) NOTICE OF
) APPEAL

)
) CIVIL ACTION
) NO. 1973-47

Plaintiff, Eula Lee Blowers, individually and on
behalf of all other persons similarly situated, hereby appeals
from the order and memorandum decision of the Honorable Harold
P. Burke, dated February 21, 1975, and denying the motion of the
Equal Employment Opportunity Commission to intervene in this
case. Plaintiff appeals on the facts and the law and from each
and every part of said order denying intervention.



Emmelyn Logan Baldwin
Attorney for Plaintiff
510 Powers Building
Rochester, New York 14614
Tele: 716-232-2292

March 11, 1975

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NEW YORK
[Filed 3/27/75]

EULA LEE BLOWERS, individually and on behalf
of all other persons similarly situated,

Plaintiff;

PATRICIA LOUGHNEY AND GENESSEE VALLEY CHAPTER
OF THE NATIONAL ORGANIZATION FOR WOMEN,

Plaintiffs;

MARY NAGEOTTE, et al.,

Plaintiffs;

and

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Applicant for Intervention,

v.

LAWYERS COOPERATIVE PUBLISHING COMPANY, INC.,
et al.,

Defendants.

CONSOLIDATED
CIVIL ACTIONS
NOS. 1973-47
1973-238
1973-346

NOTICE OF APPEAL

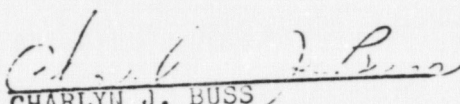
Notice is hereby given that the United States Equal Employment Opportunity Commission, applicant for intervention in the above-styled consolidated civil actions, appeals from the portion of the orders of this court, dated February 21, 1975, denying its motions to intervene as a party plaintiff.

JULIA P. COOPER
General Counsel, Acting

WILLIAM A. ROBINSON
Associate General Counsel

ROBERTA V. ROMBERG
Assistant General Counsel

RICHARD B. SLOSBERG
BARRY J. BENNETT


CHARLYN J. BUSS
Attorneys

Equal Employment Opportunity
Commission
Office of General Counsel
2401 E Street, N.W.
Washington, D.C. 20506

March 25, 1975

KENNETH M. DAVIDSON
District Counsel
Equal Employment Opportunity
Commission
One W. Genessee Street, Rm. 1020
Buffalo, New York 14020

Attorney for Plaintiffs
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et al., Nageotte, et al.:

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Rochester, New York 14607

Attorney for Defendants
Lawyers Cooperative Publishing
Company, Inc., et al.:

JOHN B. McCORRY, Esq.
Nixon, Hargrave, Devans & Doyle
Lincoln First Tower
Rochester, New York 14604

Civ-1973-238 Patricia Loughney & 1 v. Lawyers Cooperative Publishing Company, 1

| DATE | PROCEEDINGS | Date of Judgment |
|---------|---|------------------|
| 1973 | | |
| May 14 | Filed (at Rochester) Complaint | |
| 14 | Issued Summons and 3 copies | |
| 14 | JS 5 made | |
| June 5 | Filed Summons & Mar. ret. on S&C on Comptroller on 6-1-73 | |
| 22 | Filed Deft's. notice of motion, motion to dismiss & Attv's affidavit ret. 7-9-73-to be finally submitted 2 weeks from today | |
| July 9 | " (at Rochester) affidavits in opposition to motion to dismiss | |
| 9 | " (at Rochester) amendment to complaint | |
| 23 | " Motion of Equal Employment Opportunity Commission for leave to appear Amicus Curiae & to file brief on issue raised by motion to dismiss presently pending | |
| Nov. 7 | " decision & order denying motion of deft. to dismiss complaint-Burke, DJ Notice & copies to Ms. Logan-Baldwin, Mr. McCrory & Ms. Millenson | F- |
| 1974 | | |
| Jan. 14 | Filed Deft's. answer and interrogatories | |
| Feb. 11 | " Pltfs'. affidavit & notice of motion for order compelling the deft. to appear for depositions & produce documents ret. 2-25-74 | |
| 11 | " Pltfs'. notice to produce | |
| 11 | " Pltfs'. notice to take depositions of Donald Bennett & Leonard Reiser on Feb. 19, 20 & 21, 1974 | |
| 19 | " Deft's. affidavit, notice of motion & motion for order setting time for depositions of deft's. employees and requiring pltfs. to answer 1st interrogatories ret. 2-25-74 | |
| 25 | " Pltfs'. reply affirmation in opposition to motion of deft. | |
| 25 | Motion by Pltff. to compel deposition. Motion by Deft. to compel depositions, etc. To be finally submitted 3 wks. from today | |
| Mar. 11 | Filed Deft's. response to notice for production | |
| Oct. 30 | " Order directing pltfs. to answer deft's. 1st interrogatories before the depositions of deft's. employees & before the production of documents requested by pltfs. etc.-Burke, DJ Notice & copies to Emmelyn Logan-Baldwin & Nixon, Hargrave, Devans & Doyle | F- |
| Dec. 3 | " Pltff's. answers to 1st interrogatories by deft. | |
| 9 | " Deft's. affidavit and motion for protective order-ret. 12-23-74 (in Civ-1973-47) | |
| 23 | " Pltfs'. affirmation & notice of cross motion for protective order & to compel discovery; opposition to deft's. motion for protective order-ret. at Roch. 12-23-74 (in Civ-1973-47) | |
| 23 | " Pltfs'. notice of motion to set dates for depositions-ret. 1-13-75-Withdrawn | |
| 1975 | | |
| Jan. 21 | Filed Pltfs'. affirmation and notice of motion to permit Equal Employment Opportunity Commission to participate in depositions-ret. at Roch. 1-27-75 | |
| 27 | Motion by Pltfs. to permit EEOC to participate in depositions. To be submitted 1-31-75 | |
| 30 | Filed Deft's. opposing affidavit on motion to permit EEOC to depose witnesses | |
| 31 | " Deft's. affidavit | |
| 31 | " EEOC affidavit in support of pltfs'. motion to permit EEOC participation in discovery | |
| 31 | " Pltfs'. reply affirmation in support of motion to permit EEOC to participate in depositions | |

iv-1973-238 Patricia Loughney & 1 v. Lawyers Cooperative Publishing Co., Inc.
C. 110 Rev. Civil Docket Continuation

| DATE | | PROCEEDINGS | Date Of Judgment |
|---------|----|---|------------------|
| 1975 | | | |
| Feb. 6 | 6 | Filed EEOC motion to intervene as a party pltf. (filed in Roch.) | |
| | 6 | " EEOC notice of motion to intervene and motion to consolidate this case with Civ-1973-47 and Civ-1973-346 or in the alternative to add all pltfs. as parties in Civ-1973-47-ret. at Roch 2-10-75 (in Civ-1973-47) | |
| | 6 | " Pltfs'. certificate of service of above motion (in Civ-1973-47) | |
| | 10 | " Pltfs'. affirmation in support of application for intervention (filed in Roch.) | |
| | 10 | Motion by EEOC to intervene. To be submitted 1 wk. from today. | |
| | | Depositions adj. until 3-11-75 | |
| | 10 | Filed Pltfs'. reply affirmation in support of cross motion for protective order and to compel disclosure; opposition to deft's. motion for protective order (in Civ-1973-47) | |
| | 17 | " letter from Pltfs'. attorney to Hon. Harold P. Burke dated 2-17-75 (in Civ-1973-47) | |
| | 20 | " Deft's. affidavit in opposition to motion to intervene | |
| | 20 | " Deft's. memorandum of points and authorities - preliminary statement | |
| | 24 | " Decision & Order denying motion of EEOC to intervene as a pltf.; denying Pltfs'. motion to permit EEOC to participate in depositions, and directing depositions to proceed on specified dates-Burke, DJ Notice & copies to Emmelyn Logan-Baldwin, Nixon, Hargrave, Devans & Doyle and Charlyn J. Buss | F-1 |
| Mar. 18 | " | Pltfs'. Notice of Appeal (copy mailed to Mr. McCrory and to Clerk, CCA with copy of docket entries; CCA's Forms C and D mailed to Mrs. Logan-Baldwin) | |
| | 27 | " Notice of Appeal of U.S. Equal Employment Opportunity Commission, applicant for intervention (copy mailed to Mr. McCrory and to Clerk, CCA with copy of docket entries; CCA's Forms C and D mailed to Mr. Davidson) (in Civ-1973-47) | |

[Filed 5/14/73]

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

PATRICIA LOUGHNEY
61 Dewey Avenue
Fairport, New York 14454

GENESEE VALLEY CHAPTER OF THE
NATIONAL ORGANIZATION FOR WOMEN
369 Parsells Avenue
Rochester, New York 14609

Plaintiffs,

v.

LAWYERS COOPERATIVE PUBLISHING
COMPANY, INC.
One Aqueduct Street
Rochester, New York 14614

Defendant.)

Civil Action
No. 173-238

COMPLAINT

JURISDICTION

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1343(4); 42 U.S.C. §2000 (e) 5 (f) and 28 U.S.C. §§2201 and 2202. This suit is authorized and instituted pursuant to Title VII of the Act of Congress known as "The Civil Rights Act of 1964," Title VII as amended by the Equal Employment Opportunities Act of 1972, 42 U.S.C. §2000 (e) et seq. The jurisdiction of this Court is invoked to secure protection of and to redress deprivation of rights secured by (a) 42 U.S.C. §2000 (e) et seq., providing for injunctive and other relief against discrimination on the basis of sex, race and national origin in employment and (b) 42 U.S.C. §1981, providing for the equal rights of all persons in every state and territory within the jurisdiction of the United States.

2. Charges of discrimination have been filed with the Equal Employment Opportunity Commission, the charges were properly deferred, more than one hundred and eighty (180) days elapsed since the Equal Employment Opportunity Commission took jurisdiction over the charges and the Equal Employment Opportunity Commission has issued a Right to Sue Notice to each plaintiff. Copies of the Right to Sue Notices are attached hereto and made a part hereof as Exhibits A and B.

PARTIES

3. Plaintiff Patricia A. Loughney is a private citizen who resides at 61 Dewey Avenue, Fairport, New York. Plaintiff Loughney is and has been employed by defendant Lawyers Cooperative Publishing Company since September, 1969; she had previous summer employment with Lawyers Cooperative in the Summers of 1968 and 1969. She has at various times sought and continues to seek advancement at Lawyers Cooperative Publishing Company. She holds a B.A. degree in English from the State University at Albany, New York; she has a five-year temporary teaching certificate for teaching of English in secondary schools, grades 7 through 12 and she is enrolled part time at the University of Rochester in a program for a Master's Degree in English.

4. Plaintiff National Organization for Women is a non-profit organization of persons in the United States united in an effort to bring the benefits and guarantees of the Constitution and the laws of the United States to female citizens of the United States. Plaintiff Loughney is a member of the Genesee Valley Chapter of the National Organization for Women.

5. Defendant, Lawyers Cooperative Publishing Company, is a publishing company engaged in publishing law books. It is organized and exists under the laws of the State of New York; it has offices in San Francisco, California; Rochester, New York and Webster, New York.

STATEMENT OF CASE

6. This is a proceeding for a declaratory judgment as to the rights of the plaintiffs for damages, back wages and for injunctive relief restraining the defendant from maintaining a practice, policy, custom or usage of:

a. Discriminating against Plaintiff Loughney and other female employees because of sex, race and national origin with respect to compensation, terms, conditions and privileges of employment and

b. Limiting, segregating and classifying employees of defendant in ways which deprive the Plaintiff Loughney and other female employees of employment opportunities and otherwise adversely affecting their status as employees because of their sex, race and national origin.

7. The defendant has consistently and purposefully limited and deprived its women employees, including Plaintiff Loughney, herein of their rights guaranteed to them under the United States Constitution and federal law, with the intent and design, both directly and indirectly, of fostering and protecting, the advantage and advancement of white male employees to the detriment of the female employees.

COUNT I

8. Upon information and belief, the Lawyers Cooperative Publishing Company maintains a policy of discrimination against its women employees, including Plaintiff Loughney, herein, by virtually excluding them from certain job classifications including but not limited to: purchasing agent, accountant, computer librarian, truck driver, pressman, managing editor, professional interviewer, printing personnel, systems analyst, certain machine operators (highest paid operators in gathering, shipping, binding), all managerial positions and all positions above managerial level. Job classification in Lawyers Cooperative determines the rate of pay an employee receives. Women employees customarily and uniformly have lower job classifications and lower rates of pay than male employees performing the same or similar duties or responsibilities and possessing the same skills.

a. Upon information and belief, for example, the advance reading department is classified as a clerical, non-exempt job. The advance reading department is and always has been composed of only women employees. The starting salary in the advance reading department is \$118.50 per week. On the other hand, the correspondence department where persons of both male and female sex are employed, is classified as an exempt position and the starting salaries of the correspondence department are - collection correspondent, \$131.25 per week and junior correspondent, \$146.25 per week. Work done by employees in the advance reading department is the same or similar work as that performed by the employees of the correspondence department. Because of the arbitrary classification of the advance reading department jobs as clerical, non-exempt and the arbitrary classi-

fication of the correspondence department jobs as technical, exempt, Lawyers Cooperative Publishing Company is engaged in a practice, custom and usage of discriminating against female employees by making available to the exempt employee additional employee benefits while excluding the non-exempt employees, the female employees, from additional benefits.

COUNT II

9. Upon information and belief, defendant maintains a policy, practice, custom and usage of discrimination against its women employees by placing its women employees, including Plaintiff Loughney herein, in low, menial classifications while requiring them to perform work of high, technical and professional caliber and classification; the women receive pay, including overtime pay, at the low, menial level.

COUNT III

10. Upon information and belief, defendant maintains a policy, practice, custom and usage calculated to discriminate against the female employees, including Plaintiff Loughney herein, by a conscious practice of filling only certain jobs in its job classifications with women employees which it carefully recruits with a design to hire only those women who will work for sub-standard wages and be docile. Lawyers Cooperative Publishing Company has at least five departments in which there has never been nor is there now a female employee.

COUNT IV

11. Upon information and belief, defendant maintains a policy, practice, custom and usage of recruitment for employment which is directed to seeking and hiring only the white male for the best paying, career-oriented jobs, while seeking and hiring women, including Plaintiff Loughney, herein, for low-paying, menial jobs with little or no career, supervisory or management potential.

COUNT V

12. Upon information and belief, defendant maintains a policy, practice, custom and usage of excluding women, including Plaintiff Loughney, herein, from training programs to which men with the equivalent or less education and skills are enrolled either at the commencement of their employment or during certain stages in their employment. Men employees customarily finish training programs with job classifications not customarily granted their female counterparts.

COUNT VI

13. Upon information and belief, defendant maintains a policy, practice, custom and usage of discriminating against its women employees, including Plaintiff Loughney, by classifying and assigning jobs for the white male employees as jobs which are career, supervisory and management oriented while classifying jobs for women which are low paying and of menial nature and without career, supervisory or management potential.

-7-

COUNT VII

14. Upon information and belief, defendant discriminates against its women employees, including Plaintiff Loughney, by maintaining a policy, practice, custom and usage of promoting and transferring the employees so that the white male employee is advanced to the high-paying, career-oriented, supervisory or management position while the woman employee is retained in low-paying, menial jobs which are not career, supervisory or management oriented.

COUNT VIII

15. Upon information and belief, defendant discriminates against its women employees, including Plaintiff Loughney, by maintaining a policy, practice, custom and usage of paying women employees of whatever job description, classification or job level, less than white male counterparts when the education, skill and competence of the women employee equals or exceeds the education, skill and competence of the white male employee engaged in the same or similar work.

COUNT IX

16. Upon information and belief, defendant discriminates against its women employees, including Plaintiff Loughney, by maintaining a policy, practice, custom and usage of fostering an atmosphere in the employment situation which is calculated to harass, embarrass, humiliate and thereby cause the woman employee to "keep her place."

a. This practice, policy, custom or usage of the respondent is evidenced from the initial interview with the female employee when corporate agents ask of the prospective female employee questions calculated to isolate persons who have nothing but completely ordinary social and political ideas. Further, the initial interview of female employees

is calculated to exclude from further prospect of employment all women who do not indicate their disinclination to have children and who fail to divulge such personal information to the corporate interviewer as her menstrual cycle experience. Male prospective employees are not so "screened."

b. At the time of the interview with the personnel officer, there was particular inquiry of Plaintiff Loughney as to whether she had plans for marriage. Defendant required, as a condition of making any employment offer, that Plaintiff Loughney be examined by a woman gynecologist retained by defendant. Plaintiff believes that the woman gynecologist made no general examination of Plaintiff Loughney but examined Plaintiff Loughney to determine whether she was pregnant, whether she had any plans to be pregnant and whether she had any medical problems associated with her menstrual cycle.

c. The defendant fosters an atmosphere calculated to humiliate and depress the woman employee upon hiring by thereafter imposing close restrictions on the movement of the employee during the normal working day including but not limited to, checks on when the woman employee travels from one floor to another, when the female employee uses the restroom, takes a coffee break, etc. Further, the female employee is led to believe that company personnel are watching all of her moves, particularly the times when female employees are conversing among themselves. The company further seeks to intimidate and humiliate its female employees by removing from the individual employee's work area any poster, sign or note which expresses a sentiment which a company agent considers inappropriate. Company agents from time to time examine women employees'

personal, private property in their desks. Male employees are not subjected to this surveillance of thought and action.

d. Sex discrimination is a pervasive way of life at Lawyers Cooperative. Particularly distressing to Plaintiff Loughney and other women employees is the continual surveillance which the company arranges for all of its female employees. Women are carefully watched for the time they take coffee breaks or go to the restroom. Women are specifically forbidden to go to the cafeteria except at authorized break times. Men are not so restricted. The company has appointed, for example, in the editorial clerical department a supervisor who does nothing all day but read magazines and watch the women employees to see that they are not leaving too early, going to the restroom too often and observes which women are talking to other women.

e. Lawyers Cooperative Publishing Company heightens the atmosphere of surveillance and suspicion by advising an employee that "someone" saw you do this and such. When an employee will attempt to find out who has accused, the supervisors will give no information on the charges.

f. The company maintains and enforces a dress code which applies only to its women employees.

g. The company engages in a policy with respect to its women employees of arbitrarily denying a portion of periodic, mandated, wage increases for its women employees - wage increases to which those women employees would have been entitled in the application of the normal wage scale for that salary level.

h. Recently, library staff (men employees) took over jobs formerly performed by editorial clerical

personnel (women). The men employees are now doing the same job that the women employees did before them but they are being paid more for their work.

i. The company also routinely discriminates against women with clerical classifications. Women with clerical classifications routinely perform tasks of a technical or professional nature while receiving pay at a clerical level.

j. The defendant seeks to heighten the employment disadvantage of its female employees by failing to post information adequately on promotion and transfer opportunities in other parts of the company for the benefit of female employees; when the company officials are contacted by female employees with respect to promotion and/or transfer, company employees routinely give little or no information on those opportunities to female employees.

COUNT X

17. Upon information and belief defendant discriminates against its women employees, including Plaintiff Loughney, by maintaining a policy, practice, custom and usage of denying sick leave and other benefits to its female employees who become pregnant during the course of their employment.

COUNT XI

18. Plaintiff Loughney's first employment with Lawyers Cooperative was in the Summer of 1968; she believes that she was classified as an editorial clerk; Plaintiff Loughney was, at that time, still enrolled in college. She cut and pasted articles for Lawyers Cooperative editors as an editorial clerk. She performed this same work as a summer employee in the Summer of 1969. (This work is now

-11-

sent by the defendant to the Al Sigl Center in Rochester where it is performed by mentally retarded individuals.)

19. In the Fall of 1969, Plaintiff Loughney decided to inquire of career opportunities with defendant. She talked with an individual in the personnel department about a transfer. The defendant's personnel officer advised Plaintiff Loughney that defendant was looking for "indexing girls" - a new type of employee which would be something between a clerical and editorial classification. The individual selected would be developed into an indexing specialist and trained by Lawyers Cooperative.

20. In the interview with the personnel officer as well as in subsequent interviews with the individuals in the management of the indexing department, Plaintiff Loughney was advised that the position that the defendant was seeking to fill was an "unclassified animal;" there was no job description existing but that there would be a job description and classification written. Plaintiff Loughney expressed to all these different individuals that she definitely was seeking a career opportunity; Plaintiff Loughney was advised by defendant's agents that the indexing specialist job which they were planning to develop would offer such career opportunities and that she could rely on the company to develop the job classification and train her into a skill which had opportunities for advancement.

21. Defendant offered to give Plaintiff Loughney the "indexing specialist" job at \$10.00 a week more than her previous editorial clerk job - the editorial clerk job had paid \$90.00 per week; the defendant offered to give Plaintiff Loughney the "indexing specialist" job at \$100.00 per week. Plaintiff Loughney insisted that she wanted a

\$20.00 per week raise; the offer was compromised at a beginning salary of about \$105.00 per week gross pay.

22. After accepting the job in the indexing department, Plaintiff Loughney found that the enticement to her taking the job by being described to her as a job for real opportunity, was not there. The indexing department when she entered it was headed by a Mr. Harry Wood. Mr. Wood's attitude toward women was that they are all by and large scatterbrained, disorganized and fluttery. Mr. Wood had no confidence in his women workers and wanted his women workers merely to be sorters. In August of 1970, Leonard Reiser was transferred into the department and for a time, before becoming head of the indexing department, served under Mr. Wood. Although Mr. Reiser began to give plaintiff work with some responsibility he felt uneasy about doing so.

23. There are now and have been for practically her entire period of association with the indexing department, eleven men and three women in the department. Each of the men hired in the Department are lawyers and are classified as professional, exempt employees. Until the Fall of 1972, the women in the department were classified non-exempt "clerical." In October of 1972, the defendant posted a new job classification for plaintiff as a "technical," non-exempt employee.

24. Plaintiff Loughney has been increasingly assuming more responsibility and new tasks on her job. Since the beginning of 1972, Plaintiff Loughney has been doing the same work as the men in the department, what is Plaintiff Loughney has been doing the actual writing of indexes. Plaintiff Loughney believes that the men doing the same work are being paid at least \$9,500.00 per year starting salary; after normal raises from periodic reviews,

Plaintiff Loughney is making about \$6,500.00 a year.

25. Plaintiff Loughney received regular reviews in the indexing department every six months until about May of 1971, when she began to receive yearly reviews. All of Plaintiff Loughney's reviews have been good; Plaintiff Loughney has received regular raises of about \$300 per year.

26. Periodically, Plaintiff Loughney has questioned Mr. Reiser, now head of the indexing department, about the new classification pay scale that was promised her at the time of accepting the job. When Plaintiff Loughney has pressed these conversations, Mr. Reiser jokingly questions Plaintiff Loughney, "Why don't you be a nice girl; go home and have babies like other women." Mr. Reiser gives Plaintiff Loughney the impression that women are to be tolerated so long as they stay in their place on their job.

COUNT XII

27. The defendant maintains a policy, practice, custom and usage of retaliating and/or attempting to intimidate female employees who complain of the company's illegal, discriminatory policies and practices.

28. Since Plaintiff Loughney's pressing of her complaint about classification and pay has coincided with other complaints made by other employees and ex-employees of Lawyers Cooperative and the National Organization for Women, Plaintiff Loughney has been referred to, disparagingly as a feminist or a women's liberationist. Her supervisor, Mr. Reiser, called her into his office the day following the May 23, 1972, N.O.W. press conference and commented how he had noticed Plaintiff Loughney "elated" at the news of Lawyers Cooperative Publishing Company employees' filing suit alleging sex discrimination against the company. Mr.

Reiser advised her at this time that he had forwarded a proposal for reclassification of her position for action. In view of his action, Mr. Reiser asked Plaintiff Loughney to promise that she would not take any action to complain of her allegations of sex discriminations. Mr. Reiser would give Plaintiff Loughney no details of any of the proposals for reclassification of her job and Plaintiff Loughney therefore considered it unfair of him to expect her to make any promise of inaction on her complaints.

29. On May 25, 1972, there was circulated around the company a rumor that Plaintiff Loughney had been involved in circulating a petition on women's rights among company employees. The rumor was entirely false but again Plaintiff Loughney was subjected to disparaging comments about her effort to complain and led to believe that any effort, even the innocent circulation of a petition, was condemned by the company.

30. In December of 1972, Plaintiff Loughney received her six-month review in her new "technical" classification. Plaintiff Loughney received good to superior ratings across all rating categories; she received a raise higher than those she had been receiving in previous reviews. However, defendant's personnel had added comments characterizing Plaintiff Loughney as "belligerent" and "uncooperative with others." Upon information and belief, the review containing these derogatory remarks of Plaintiff Loughney was not Plaintiff Loughney's original review prepared on the basis of evaluating her actual job performance and employee attitude; there was a review of Plaintiff Loughney which contained no such comments which was prepared by her superior responsible for making the review.

Plaintiff Loughney believes that a second review was prepared at the direction of higher company officials with the derogatory comments specifically added without basis in fact but with the intention of personnel of the defendant to construct an "employee personality problem" case against Plaintiff Loughney.

EFFECTS OF DEFENDANT'S ACTS

31. The effect, purpose and intent of the aforementioned policies and practices pursued by the defendant, have been, and continue to be, to limit, segregate, classify and discriminate against Plaintiff Loughney and other female employees, in ways which jeopardize the employment opportunities of female workers and otherwise affect adversely their status as employees.

32. All the practices herein alleged are continuing up to the present time despite the efforts of the plaintiff and other female employees having complained to the New York State Division of Human Rights and Equal Employment Opportunity Commission and the complaints of the plaintiff and other female employees having been found in the New York State Division of Human Rights to state "probable cause" of unlawful, discriminatory acts on the defendant's part.

33. Plaintiffs and other female employees, have no plain, adequate or complete remedy at law to redress the wrongs alleged herein and this suit for preliminary and permanent injunction is the only means of securing adequate relief. The plaintiffs and other female employees are now suffering and will continue to suffer irreparable injury from the defendant's policies, practices, customs and usages set forth herein.

34. By reason of the foregoing unlawful and discriminatory actions of the defendant, plaintiff's have suffered damages.

PRAYER FOR RELIEF

35. Wherefore, the plaintiffs respectfully pray that this court advance this case on the docket, order a speedy hearing at the earliest possible date, cause this case to be in every way expedited and upon such hearing to:

(1) Declare that defendant has discriminated and continues to discriminate against the plaintiffs on the basis of sex, race and national origin and in violation of federal statutory and constitutional law;

(2) Grant the plaintiffs preliminary and permanent injunctions enjoining the defendant, its agents, successors, employees, attorneys and those acting in concert with them and at their direction from continuing:

(a) To exclude women from certain job classifications, including but not limited to: Purchasing Agent, Accountant, Computer Librarian, Truck Driver, Press Man, Managing Editor, Professional Interviewer, Printing Personnel, Systems Analyst, Certain Machine Operators (highest paid operators in gathering, shipping, binding), all managerial positions and positions above managerial levels.

(b) To place its women employees in low, menial classifications while requiring them to perform work of high, technical and professional caliber and classification.

(c) To fill only certain jobs in its job classification with women employees which it carefully recruits with the design to hire only those women employees who will work for substandard wages and be docile.

(d) To hire only the white male for the best paying, career-oriented jobs, while seeking and hiring women for low-paid, menial jobs with little or no career, supervisory or managerial potential

(e) To exclude women from training programs to which men with equivalent or less education and skills are enrolled either at the commencement of their employment or during certain stages of their employment.

(f) To classify and assign jobs for the white male employee which are career, supervisory and managerial oriented while classifying and assigning jobs for women which are low paying and of menial nature and without career, supervisory or managerial potential.

(g) To promote and transfer employees so that the white male employee is advanced to the higher-paying, career-oriented, supervisory or managerial positions while the women employees are retained in low-paying, menial jobs which are not career, supervisory or managerial oriented.

(h) To pay women of whatever job description, classification or job level less than white male counterparts when the education, skill and competence of the woman employee equals or exceeds the education, skill and competence of the white male engaged in the same or similar work.

(i) To foster an atmosphere in the employment situation calculated to harass, embarrass, humiliate and cause the woman employee to "keep her place."

(j) To subject female employees to examination of social and political ideas; to subject female applicants to questions on birth control or family

planning; to subject female applicants to questions on menstrual cycle during the interview process.

(k) To maintain surveillance of female employees during the normal working day; to remove female employees' property from their work area; to examine any personal property of a female employee in her work area.

(l) To maintain and enforce a dress code against its women employees.

(m) To deny arbitrarily a portion of a periodic, mandated, wage increase to women employees.

(n) To fail to post pertinent information on promotion and transfer opportunities in other parts of the company for the benefit of female employees; to fail to give complete information of promotion and/or transfer opportunities when inquiries are made.

(o) To fail to provide sick leave and other benefits to female employees who become pregnant during the course of their employment.

(p) To retaliate against women employees for their complaining of illegal, discriminatory practices.

(q) To intimidate or attempt to intimidate any person for having complained of illegal, discriminatory acts.

(r) To "blackball" or attempt to "blackball" any person for having complained of illegal, discriminatory acts.

36. Grant the plaintiffs a preliminary and permanent injunction, enjoining the defendant, its agents, successors, employees, attorneys, and those acting in concert with them and at their direction from continuing and maintaining any policy, practice, custom or usage of deny-

ing, abridging, withholding, conditioning, limiting or otherwise interfering with the rights of the plaintiffs to enjoy equal employment opportunities as secured by Title VII of the Civil Rights Act of 1964, as amended.

37. Grant the plaintiffs a preliminary and permanent injunction enjoining the defendant, its agents, successors, employees, attorneys and those acting in concert with them and at their direction from continuing and maintaining any policy, practice, custom or usage of limiting and depriving plaintiff opportunities for promotion or transfer because of sex.

38. Grant Plaintiff Loughney an order requiring the defendants to:

(a) Reclassify Plaintiff Loughney in a non-discriminatory classification.

(b) Pay Plaintiff Loughney on a non-discriminatory pay scale.

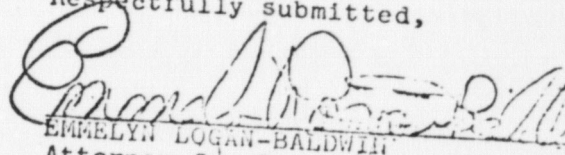
(c) Pay Plaintiff Loughney back pay at the rate she would have received had she not been discriminated against from the time of her employment to the present with Lawyers Cooperative Publishing Company, Inc.

(d) Provide Plaintiff Loughney with training, transfer and promotion opportunities on a non-discriminatory basis.

(e) Expunge Plaintiff Loughney's employment record of the derogatory personal comments inserted by the defendant's agent or agents as a consequence of the defendant's agents retaliation and/or intimidation efforts against Plaintiff Loughney.

39. Establish a mechanism for the enforcement of the injunctions, by requiring the defendant to present to the court within 30 days from the issuance of the injunctions, a plan showing precisely and in detail how to comply with the court's order that it cease and desist from policies, practices, customs and usages of discrimination against the plaintiffs on account of their sex, race and national origin as to compensation, terms, conditions, and privileges of employment.
40. Allow the plaintiffs the costs of the action herein, including reasonable attorney's fees.
41. Award Plaintiff Loughney one hundred thousand dollars (\$100,000.00) compensatory damages for the discriminatory, unlawful acts of the defendant.
42. Award plaintiffs damages by way of example against the defendant in an amount commensurate with the wrong and the defendant's ability to pay.
43. Grant such other and further relief as may appear to this court just and proper.

Respectfully submitted,


EMMELYN LOGAN-BALDWIN
Attorney for Plaintiffs
Office and Post Office Address
19 Arnold Park
Rochester, New York 14607
(716) 442-4150

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

[Filed 7/23/73]

PATRICIA LOUGHNEY, et al.,

Plaintiffs,

v.

LAWYERS COOPERATIVE PUBLISHING CO., INC.,

Defendants,

)
)
) CIVIL ACTION
) NO. 1973-238
)

) MOTION OF EQUAL
) EMPLOYMENT OPPORTUNITY
) COMMISSION FOR LEAVE
) TO APPEAR AMICUS CURIAE
)

The Equal Employment Opportunity Commission, through undersigned counsel, hereby moves this Court for leave to appear amicus curiae and to file a brief on the issues raised by the Motion to Dismiss presently pending in this matter. The Commission requests such leave for the following reasons:

1. The Equal Employment Opportunity Commission is the agency charged by Congress with the administration, interpretation and enforcement of Title VII of the 1964 Civil Rights Act, 42 U.S.C. §2000e - et seq., as amended by the Equal Employment Opportunity Act of 1972, P.L. 92-261, 82 Stat. 103 (March 24, 1972).
2. The Commission believes that the issue presented in this case-whether an organization may bring suit under Title VII on behalf of its members--is important to the interpretation and administration of the Act. It is therefore in the public interest that the Commission be permitted to present its views.

Wherefore, the Commission respectfully requests leave to
file a brief amicus curiae.

Respectfully submitted,

WILLIAM A. CAREY
General Counsel

JUNIA P. COOPER
Associate General Counsel

BEATRICE ROSENBERG
JOSEPH EDDINS

Debra A. Millenson
DEBRA A. MILLENSON
Attorney

[Filed 11/6/73]

Rec'd 11/10

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

PATRICIA LOUCHNEY and GENESSEE
VALLEY CHAPTER OF THE NATIONAL
ORGANIZATION FOR WOMEN,

Plaintiffs

- vs -

CIVIL 1973-238

LAWIERS COOPERATIVE PUBLISHING
CO. INC.,

Defendant

Emelyn S. Logan-Baldwin
19 Arnold Park
Rochester, N.Y. 14607
Attorney for plaintiffs

Nixon, Hargrave, Devans & Doyle
Lincoln First Tower
Rochester, N.Y. 14603
Attorneys for defendant
(John B. McCroory, of counsel)

Debra A. Millencon (of counsel) for
Equal Employment Opportunity Commission
1800 G Street N.W.
Washington, D.C. 20506
Filing a brief as Amicus Curiae in opposition

Defendant by notice of motion filed June 22,
1973 moves to dismiss the complaint of Genesee Valley
Chapter of the National Organization for Women. The
complaint was filed May 11, 1973. The motion came on
for oral argument July 9, 1973 and was submitted on

- 2 -

written briefs on July 23, 1973.

The motion is in all respects denied. United States vs. Students Challenging Regulatory Agency Procedures, et al, ___ U.S. ___, pages 13-19. (Decided June 13, 1973).

SO ORDERED.

Harold P. Burke
HAROLD P. BURKE
United States District Judge

November 6, 1973.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK [Filed 1/14/74]

PATRICIA COONEY and GENESEE VALLEY
CHAPTER OF THE NATIONAL ORGANIZATION
FOR WOMEN,

Plaintiffs,

v.

LAWYERS COOPERATIVE PUBLISHING CO.,
INC.,

Defendant.

ANSWER

CIV-1973-238

Defendant, for its answer to the complaint:

1. Denies the allegations set forth in paragraph numbered "one" of the complaint.

2. Denies knowledge or information sufficient to form a belief as to the allegations set forth in paragraphs numbered "two," "three," and "four" of the complaint.

3. Denies that defendant has an office in San Francisco, California. Admits the remaining allegations of paragraph numbered "five" of the complaint.

4. Denies the allegations set forth in paragraphs numbered "six" and "seven" of the complaint.

COUNT I

5. Denies the allegations set forth in paragraph numbered "eight" of the complaint.

6. Admits that both males and females are employed in the Correspondence Department. Admits that all non-supervisory jobs in the Advance Reading Department are non-exempt. Denies all the remaining allegations in subparagraph numbered "8a" of the complaint.

COUNTS II, III, IV, V, VI, VII, VIII

7. Denies the allegations set forth in paragraphs numbered "nine," "ten," "eleven," "twelve," "thirteen," "fourteen," and "fifteen" of the complaint.

COUNT IX

8. Denies the allegations set forth in paragraph numbered "sixteen" of the complaint.

9. Denies the allegations set forth in subparagraph numbered "16a" of the complaint.

10. Admits that employees are required to have a physical examination before hire. Denies the remaining allegations set forth in subparagraph numbered "16b" of the complaint.

11. Denies the allegations set forth in subparagraphs numbered "16c", "16d", "16e", "16f", "16g", "16h", "16i", and "16j" of the complaint.

COUNT X

12. Admits that female employees who become pregnant and who leave employment for purposes of child bearing and rearing may be given maternity leave. Denies that defendant's maternity leave policy discriminates against women employees in general or plaintiff in particular. Denies the remaining allegations of paragraph numbered "seventeen" of the complaint.

COUNT XI

13. Denies knowledge or information sufficient to form a belief as to plaintiff Loughney's beliefs. Admits that defendant cooperates with attempts to aid the mentally retarded by sending some work that may be similar to some of the duties plaintiff Loughney performed as a summer employee to the Al Sigl Center in Rochester, New York, where such efforts to aid the mentally retarded are undertaken. Admits that plaintiff Loughney was employed by defendant in the summers of 1968 and 1969. Denies the remaining allegations of paragraph numbered "eighteen" of the complaint.

14. Denies the allegations set forth in paragraphs numbered "nineteen" and "twenty" of the complaint.

15. Admits that plaintiff Loughney worked as an indexing specialist. Denies the remaining allegations set forth in paragraph numbered "twenty-one" of the complaint.

16. Admits that Harry Wood was Managing Editor, Indexing and that he retired on or about April, 1971. Admits that Leonard Reiser succeeded Mr. Wood on or about April, 1971. Denies the remaining allegations set forth in paragraph numbered "twenty-two" of the complaint.

17. Denies the allegations set forth in paragraphs numbered "twenty-three," "twenty-four," "twenty-five," and "twenty-six" of the complaint.

COUNT XII

18. Denies the allegations set forth in paragraphs numbered "twenty-seven," "twenty-eight," "twenty-nine" and "thirty" of the complaint.

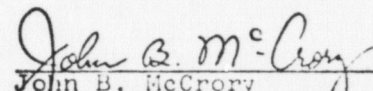
19. Denies the allegations set forth in paragraph numbered "thirty-one" of the complaint.

20. Admits that the New York State Division of Human Rights retained jurisdiction over plaintiff's complaint by determining that there was "probable cause" sufficient to warrant further investigation and hearing of plaintiffs' complaints. Denies the remaining allegations of paragraph numbered "thirty-two" of the complaint.

21. Denies the allegations set forth in paragraphs numbered "thirty-three" and "thirty-four" of the complaint.

WHEREFORE, defendant demands that plaintiffs' complaint be dismissed and that it have costs and disbursements of this action.

Dated: January 8, 1974


John B. McCrory
NIXON, HARGRAVE, DEVANS & DOYLE
Attorneys for Defendant
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Telephone: (716) 546-8000

TO: Emmelyn Logan-Baldwin, Esq.
Attorney for Plaintiffs
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19 Arnold Park
Rochester, New York 14607

UNITED STATES DISTRICT COURT [filed 1/14/74]
FOR THE WESTERN DISTRICT OF NEW YORK

PATRICIA LOUGHNEY and the GENESEE VALLEY
CHAPTER OF THE NATIONAL ORGANIZATION FOR
WOMEN,

CIVIL ACTION NO.
CIV-1973-238

Plaintiffs,

-vs-

LAWYERS COOPERATIVE PUBLISHING COMPANY,
INC.,

FIRST
INTERROGATORIES
PROPOUNDED BY
DEFENDANT

Defendant.

TO: EMMELYN LOGAN-BALDWIN, ESQ.
Attorney for Plaintiff
Office Address:
19 Arnold Park
Rochester, New York 14607

SIRS:

Defendant requests that plaintiff answer under oath, in
accordance with FRCP 33, the following interrogatories.

These interrogatories shall be deemed continuing and
shall be supplemented when necessary to reflect events occurring
and information becoming available subsequent to the filing of
initial answers. Plaintiff is requested to answer each portion
of each inquiry to the extent there is no specific objection to
each such portion.

DEFINITIONS:

A. "You" or "your" shall mean either one or both of
the plaintiffs.

B. As used herein, "identify" and "state the identity
of," when used in reference to:

1. "document" shall mean to state the date,
author, sender, recipient, type of document (i.e., a letter,
telegram, memorandum, book, chart, etc.) or other means of
identifying it, and its present location or custodian, and in the

case of a document within the possession, custody or control of the plaintiff, whether plaintiff will make it available to defendant's attorneys for inspection and/or copying; and in the case of a document that was, but is no longer, in the possession, custody, or control of plaintiff, what disposition was made of it;

2. "communication" or "communications" shall mean to state the date, communicator, communicatee, any other person present at, or overhearing the communication, and the nature of the communications, and shall include any oral, written or visual contact between two or more persons wherein any information or document was exchanged between two or more persons;

3. "data" shall mean any document or communication as defined above and as referred to in the instructions.

4. "source" shall mean to state each of 1, 2 and 3 above which relate to the topic being inquired about;

5. "person" shall mean an individual, firm, partnership, corporation, proprietorship, joint venture, association, governmental bureau, branch, or agency, or any other organization or entity. In each case a response shall state the full name and present or last-known address of the person as defined, and the present or last-known position or job classification and business affiliation of an individual.

6. "Employee" shall include present and former employees of Defendant Lawyers Cooperative Publishing Company, Inc. and shall mean to state the full name, present or last known address, and present or last known position or job classification of the employee. If the employer is a former employee, the present employer of the employee shall also be stated.

C. As used herein, "relating to" means in any way, directly or indirectly, concerning, referring, or relating to, analyzing, considering, supporting, qualifying or negating.

D. "Date" shall mean the exact day, month and year if ascertainable, or if not, the best approximation.

E. "Place" shall mean the exact location, if ascertainable, within a building, which shall also be identified, or any other location if applicable and ascertainable or if not, the best approximation.

F. "N.O.W." shall mean the Genesee Valley Chapter of The National Organization for Women.

Instructions

In answering each of the following interrogatories you are requested to identify all data relied upon by you in answer to each part, paragraph, or subparagraph thereof.

Interrogatories

1. With respect to main paragraph 3 of your complaint:
 - (a) Does plaintiff know, have knowledge, or have any reason to believe that any female person has ever applied for the job classification of purchasing agent.
 - (b) If the answer to 1(a) is yes, identify such person(s) who applied; Identify the communication of such application.
 - (c) Does plaintiff know, have knowledge, or have any reason to believe that any female person has ever applied for the job classification of accountant.

- (d) If the answer to 1(c) is yes, identify such person(s) who applied. Identify the communication of such application.
- (e) Does plaintiff know, have knowledge, or have any reason to believe that any female person has ever applied for the job classification of computer librarian.
- (f) If the answer to 1(e) is yes, identify such person(s) who applied. Identify the communication of such application.
- (g) Does plaintiff know, have knowledge, or have any reason to believe that any female person has ever applied for the job classification of truck driver.
- (h) If the answer to 1(g) is yes, identify such person(s) who applied. Identify the communication of such application.
- (i) Does plaintiff know, have knowledge, or have any reason to believe that any female person has ever applied for the job classification of pressman.
- (j) If the answer to 1(i) is yes, identify such person(s) who applied. Identify the communication of such application.
- (k) Does the plaintiff know, have knowledge, or have any reason to believe that any female person has ever applied for the job classification of managing editor.
- (l) If the answer to 1(k) is yes, identify such person(s) who applied. Identify the communication of such application.
- (m) Does plaintiff know, have knowledge, or have any reason to believe that any female person has ever applied for the job classification of "professional interviewer."

- (n) If the answer to 1(m) is yes, identify such person(s) who applied. Identify the communication of such application.
- (o) Does the plaintiff know, have knowledge, or have any reason to believe that any female person has ever applied for the job classification(s) of "printing personnel."
- (p) If the answer to 1(o) is yes, identify such person(s) who applied. Identify the communication of such application.
- (q) Does the plaintiff know, have knowledge, or have any reason to believe that any female person has ever applied for the job classification of systems analyst.
- (r) If the answer to 1(q) is yes, identify such person(s) who applied. Identify the communication of such application.
- (s) Does the plaintiff know, have knowledge, or have any reason to believe that any female person has ever applied for the job classification(s) referred to as "certain machine operators" in said paragraph.
- (t) If the answer to 1(s) is yes, identify such person(s) who applied. Identify the communication of such application.
- (u) Does the plaintiff know, have knowledge, or have any reason to believe that any female person has ever applied for the job classification(s) of "all managerial positions."
- (v) If the answer to 1(u) is yes, identify such person(s) who applied. Identify the communication of such application.

- (w) Does plaintiff know, have knowledge, or have any reason to believe that any female person has ever applied for the job classification(s) referred to as "all positions above managerial level" in said paragraph.
- (x) If the answer to 1(w) is yes, identify such person(s) who applied. Identify the communication of such application.
- (y) Does plaintiff know, have knowledge, or have reason to believe that a particular female person is qualified to hold the job classification of purchasing agent.
- (z) If the answer to 1(y) is yes, identify such person(s) who is so qualified.
- (aa) Does the plaintiff know, have knowledge, or have reason to believe that a particular female person is qualified to hold the job classification of accountant.
- (bb) If the answer to 1(aa) is yes, identify such person(s) who is so qualified.
- (cc) Does the plaintiff know, have knowledge, or have reason to believe that a particular female person is qualified to hold the job classification of computer librarian.
- (dd) If the answer to 1(cc) is yes, identify such person(s) who is so qualified.
- (ee) Does the plaintiff know, have knowledge, or have reason to believe that a particular female person is qualified to hold the job classification of truck driver.
- (ff) If the answer to 1(ee) is yes, identify such person(s) who is so qualified.
- (gg) Does the plaintiff know, have knowledge, or have reason to believe that a particular female person is qualified to hold the job classification of pressman.

- (hh) If the answer to 1(eg) is yes, identify such person(s) who is so qualified.
- (ii) Does the plaintiff know, have knowledge, or have reason to believe that a particular female person is qualified to hold the job classification of managing editor.
- (jj) If the answer to 1(ii) is yes, identify such person(s) who is so qualified.
- (kk) Does the plaintiff know, have knowledge, or have reason to believe that a particular female person is qualified to hold the job classification of professional interviewer.
- (ll) If the answer to 1(kk) is yes, identify such person(s) who is so qualified.
- (mm) Does the plaintiff know, have knowledge, or have reason to believe that a particular female person is qualified to hold the job classification(s) of "printing personnel."
- (nn) If the answer to 1(mm) is yes, identify such person(s) who is so qualified.
- (oo) Does the plaintiff know, have knowledge, or have reason to believe that a particular female person is qualified to hold the job classification of systems analyst.
- (pp) If the answer to 1(oo) is yes, identify such person(s) who is so qualified.
- (qq) Does the plaintiff know, have knowledge, or have reason to believe that a particular female person is qualified to hold the job classification(s) of "certain machine operators" as alleged in complaint.

- (rr) If the answer to 1(qq) is yes, identify such person(s) who is so qualified.
 - (ss) Does the plaintiff know, have knowledge, or have reason to believe that a particular female person is qualified to hold the job classification(s) of "all managerial positions."
 - (tt) If the answer to 1(ss) is yes, identify such person(s) who is so qualified.
 - (uu) Does the plaintiff know, have knowledge, or have reason to believe that a particular female person is qualified to hold the job classification(s) of "all positions above managerial level."
 - (vv) If the answer to 1(uu) is yes, identify such person(s) who is so qualified.
2. With respect to paragraph 9 of your complaint:
- (a) Does plaintiff know, have knowledge or have any reason to believe that any female employee has been placed in a low, menial job classification who is required to perform work of high, technical and professional caliber and classification.
 - (b) If the answer to 2(a) is yes, identify such person(s).
3. With respect to paragraph 10 of your complaint:
- (a) Identify each job that is referred to by you in said paragraph as "certain jobs" that are consciously filled with docile women.
 - (b) Identify all data which you employed in determining that women are paid "sub-standard" wages as alleged in said paragraph.

4. With respect to paragraph 11 of your complaint:

- (a) Does plaintiff know of any of Defendant's jobs which are low paying?
- (b) If the answer to 4(a) is yes, identify such jobs.
- (c) Does plaintiff know of any of Defendant's jobs which are menial?
- (d) If the answer to 4(c) is yes, identify such jobs.
- (e) Does plaintiff know of any of Defendant's jobs which have little or no career potential?
- (f) If the answer to 4(e) is yes, identify such jobs.
- (g) Does plaintiff know of any of Defendant's jobs which have no supervisory potential?
- (h) If the answer to 4(g) is yes, identify such jobs.
- (i) Does the plaintiff know of any of Defendant's jobs which have no management potential?
- (j) If the answer to 4(i) is yes, identify such jobs.

5. With respect to paragraph 12 of your complaint:

- (a) Identify each training program for which plaintiff Loughney was qualified because of her skills or education but from which she was excluded.
- (b) Does plaintiff know, have knowledge, or have reason to believe that Defendant Lawyers Cooperative Publishing Company has training program(s) from which females are excluded.
- (c) If the answer to 5(b) is yes, identify each training program.
- (d) If the answer to 5(b) is yes, identify each person excluded from each training program.

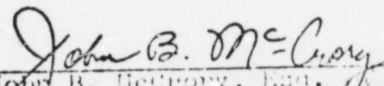
6. With respect to paragraph 13 of your complaint:
 - (a) Name each job classification into which plaintiff Loughney sought but was denied classification.
 - (b) For each job classification listed in 6(a) identify each communication wherein said plaintiff sought such classification(s).
 - (c) Does plaintiff know, have knowledge or have reason to believe that female persons have sought assignment to job classifications that are either career or supervisory or management oriented or have any of these orientations but who have been denied such classification?
 - (d) If the answer to 6(c) is yes, identify each such person and each such job sought by such person.
7. With respect to paragraph 14 of your complaint:
 - (a) List each transfer or promotion sought by plaintiff Loughney.
 - (b) Identify each communication made by plaintiff Loughney in seeking each transfer or promotion listed in 7(a).
 - (c) Does plaintiff know, have knowledge or have reason to believe that female employees have sought transfer or promotion within said company?
 - (d) If the answer to 7(c) is yes, identify each female employee who has sought transfer or promotion and for each female employee named, identify the job classification desired.
8. With respect to paragraph 15 of your complaint:
 - (a) Identify each male employee who performs the same or

similar work as plaintiff Loughney but who is paid more than plaintiff Loughney's paid for such work.

- (b) Does plaintiff know, have knowledge or reason to believe that female employees receive less pay than male employees for the same or similar work?
 - (c) If the answer to 8(b) is yes, identify each female who is so paid.
9. With respect to paragraph 16 of your complaint:
- (a) Identify each communication which created or fostered the "atmosphere in the employment situation" which is alleged to exist by such paragraph.
 - (b) Identify each poster, sign or note which has been removed from any employee's work area as alleged in said paragraph.
 - (c) Identify each female employee whose personal, private property has been examined by Company agents as alleged in said paragraph.
 - (d) Identify the supervisor in the editorial clerical department whose only job duty is surveillance of female employees as alleged in sub-paragraph 16(d).
 - (e) Identify each female employee who has been denied any portion of an alleged periodic, mandated wage increase as alleged in sub-paragraph 16(g).
 - (f) Identify each female employee with a clerical classification who performs tasks of either a technical or professional nature or both as alleged in paragraph 16(1).
10. With respect to paragraph 19 of your complaint, identify the personnel officer who allegedly advised plaintiff Loughney of the "indexing specialist" job.

11. With respect to paragraph 24 of your complaint, identify each index for which plaintiff Loughney has done the "actual writing."
12. With respect to paragraph 26 of your complaint state, with as much accuracy as possible, the date and place of the conversations referred to in said paragraph.
13. Identify all current members of plaintiff N.O.W.
14. Identify the members of the plaintiff N.O.W. who are employed by defendant.
15. Identify all members of plaintiff N.O.W. who have been terminated from defendant's employment.
16. Identify all members of plaintiff N.O.W. who have been denied promotion or transfer while in Defendant's employ.
17. Identify all members of plaintiff N.O.W. who have been deterred from applying for employment with Defendant.
18. Identify all data as defined relating to plaintiff N.O.W.'s efforts to institute this action.
19. Identify all legal materials prepared by plaintiff N.O.W. and its parent and affiliated organizations that have been or are being used in prosecuting this action.
20. List each pregnancy, which plaintiff Loughney has had, and for each pregnancy identify each communication wherein plaintiff requested sick leave therefor.

Respectfully submitted,


John B. McGarry, Esq., Counsel
Nixon, Hargrave, Devane & Doyle
Attorneys for Defendant
Office and Post Office Address
Lincoln First Tower
299 Rochester, New York 14603

Dated: January 8, 1974

[Filed 2/11/74]

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

PATRICIA LOUGHNEY
61 Dewey Avenue
Fairport, New York 14454

GENESEE VALLEY CHAPTER OF THE
NATIONAL ORGANIZATION FOR WOMEN
369 Parsells Avenue
Rochester, New York 14609

Plaintiffs,

v.

LAWYERS COOPERATIVE PUBLISHING
COMPANY, INC.
One Aqueduct Street
Rochester, New York 14614

Defendant.

NOTICE OF MOTION

Civil Action
No. 1973-232

PLEASE TAKE NOTICE that upon the plaintiffs' summons and complaint, the defendant's answer, the defendant's First Interrogatories Propounded by Defendant, the affidavit of Patricia Loughney, duly sworn, February 8th, 1974, and the affidavit of E. Elisabeth Holm, President of the Genesee Valley Chapter of the National Organization For Women, the plaintiffs will move at a motion term of this Court to be held at the Federal Building, State Street, Rochester, New York at 10:00 A.M. or soon thereafter as counsel can be heard on the 25th day of February, 1974, for an order compelling the defendants to appear for depositions and produce documents pursuant to duly served notices in the class action, Eula Lee Blowers, individually and on behalf of all other persons similarly situated v. Lawyers Cooperative Publishing Company, et al of which the plaintiffs herein are class members, for an order granting the plaintiffs an extension of time in which to answer the First Interrogatories propounded by defendant until after the defendants have appeared for depositions duly noticed and produced documents duly requested, and for a protective

order of the Court striking certain of defendant's First Interrogatories Propounded by Defendant on the grounds that the information requested is privileged, constitutionally protected from disclosure, work product in connection with this litigation and/or irrelevant and immaterial to the issues of the lawsuit.

PLEASE TAKE FURTHER NOTICE, that any answering affidavits and/or responding papers shall be served on attorney for plaintiffs on or before February 21, 1974.



Emmelyn Logan-Baldwin
Attorney for Plaintiffs
19 Arnold Park
Rochester, New York 14607
716 442-4150

February 8, 1974.

TO: NIXON, HARGRAVE, DEVANS & DOYLE
John B. McCrory, Esquire of counsel
Attorneys for Defendant
Lincoln First Tower
Rochester, New York 14604
716 546-6000

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

PATRICIA LOUGHNEY
61 Dewey Avenue
Fairport, New York 14454

GENESEE VALLEY CHAPTER OF THE
NATIONAL ORGANIZATION FOR WOMEN
369 Parcels Avenue
Rochester, New York 14609

Plaintiffs,

v.

LAWYERS COOPERATIVE PUBLISHING
COMPANY, INC.
One Aqueduct Street
Rochester, New York 14614

Defendant.

AFFIDAVIT IN
SUPPORT OF
MOTION

Civil Action
No. 1973-238

STATE OF NEW YORK)
COUNTY OF MONROE) SS:
CITY OF ROCHESTER)

Patricia Loughney, being duly sworn, according
to the law, deposes and says:

1. I am one of the plaintiffs in the above
noted lawsuit. This Affidavit is made by me in support of the
motion of plaintiffs for an order compelling the defendants to
appear for depositions and produce documents pursuant to notice
duly served in the class action, Eula Lee Blowers, individually
and on behalf of all other persons similarly situated v.
Lawyers Cooperative Publishing Company, et al., of which the
plaintiffs in this lawsuit are class members, for an order
granting the plaintiffs an extension of time in which to
answer the First Interrogatories of the Defendant until after
the defendants have appeared for depositions duly noticed and
produced documents duly requested, and for protective order
striking certain questions of the First Interrogatories Pro-
pounded by Defendant on the grounds that the information re-

quested is privileged, constitutionally protected from disclosure, work product incidental to the preparation of this litigation and irrelevant and/or immaterial to the issues raised in this lawsuit.

2. I am an employee of defendant Lawyers Cooperative Publishing Company. My present classification is Indexing Specialist. I, along with a number of other present or past employees of Lawyers Cooperative Publishing Company complain that the Company maintains a practice, policy, custom or usage of discriminating against us and other female employees because of sex, race and national origin with respect to compensation, terms, conditions and privileges of employment and limiting, segregating and classifying us and other employees of the Company in ways which deprive us of employment opportunities and otherwise adversely affect our status as employees because of sex, race and national origin.

3. Written, formal complaints by present and/or past employees of the Company, including Eula Lee Blowers, myself, Mary Mageotte, Vincenza Linda Grice, Pat Prusak, Elizabeth Ares, Pasha Baker, Ellen Michelson, Margaret Moulton, Beverly Natroun and Virginia Sweeney were first filed with the New York State Division of Human Rights and then with the Equal Employment Opportunity Commission. In due course, the New York State Division of Human Rights found "probable cause" to believe that the Company has discriminated against us. The New York State Division of Human Rights has ordered our complaints to public hearing after the Company refused. I am informed from my attorney, to take the corrective action to eliminate discrimination which the Division had directed in its conciliation efforts. I am informed and believe from talking with my attorney that the proceedings before the New York State Division of Human Rights is awaiting Court resolution of the

action of my attorney and the New York State Division of Human Rights attorney to compel production of information by Lawyers Cooperative Publishing Company.

4. In due course, the Equal Employment Opportunity Commission issued Right To Sue Notices to myself and the other present or past employees of defendant Lawyers Cooperative Publishing Company, giving jurisdictional basis to each of us to proceed under Title VII of the Civil Rights Act of 1964 on our claims of employment discrimination. The first such Right To Sue Notice was issued to Eula Lee Blowers who on February 1, 1973 filed a class action lawsuit styled Eula Lee Blowers, individually, and on behalf of all other persons similarly situated, v. Lawyers Cooperative Publishing Company, Inc., Donald Bennett, Charles Donner, and Robert Flen, Civ. -1973-47.

5. Thereafter, as Right To Sue Notices were duly issued by the Equal Employment Opportunity Commission to myself and other past or present employees of defendant Lawyers Cooperative Publishing Company, I and the other past and present employees of defendant Lawyers Cooperative Publishing Company moved pursuant to Federal Rule 21 to be named as additional party plaintiffs and named members of the class, by motion of April 6, 1973.

6. When there had been no decision of my application to be added as an additional party plaintiff and named member of the class in the Blowers class action lawsuit, I file along with plaintiff Genesee Valley Chapter of the National Organization For Women, the complaint in this lawsuit to perfect my claims of employment discrimination and to assure that no argument could be advanced that I had not properly perfected all of those claims as provided in Title VII of the Civil Rights Act of 1964.

7. I believe that the complaint of Eula Lee Blowers as well as my complaint and the complaints of Mary

Nageotte, Vincenza Linda Grice, Pat Prusak, Elizabeth Area, Pasha Baker, Ellen Michelson, Margaret Moulton, Beverly Natrour and Virginia Sweeney and the Genesee Valley Chapter of the National Organization For Women raise many of the same or similar claims, that there are common questions of law and fact in the Blowers complaint, my base and the cases of the other employees, that all these claims could be effective and efficiently presented in a class action lawsuit. I incorporate herewith by reference the detailed outline of these common questions of law and fact presented to the Court in the previous motion to the Court of myself and the other past or present employees of defendant Lawyers Cooperative Publishing Company to be named as additional party plaintiffs and members of the class in the Blowers class action lawsuit.

8. I am informed and believe from talking with my attorney that plaintiff Eula Lee Blowers by notice of motion dated March 22, 1973, moved in her class action lawsuit to compel the defendants to appear for depositions duly noticed and to produce documents duly noticed and to extend the time for plaintiff Blowers to answer defendants' First Interrogatories until such time as the defendants had appeared for depositions and produced documents containing information which plaintiff Blowers would need to respond to the Interrogatories. As a member of the class affected by the defendants' acts of discrimination, I join in and renew the motion of plaintiff Blowers dated March 22, 1973.

9. It is my understanding, from reviewing the motion papers submitted in the Blowers motion of March 22, 1973 that while plaintiff Blowers duly appeared for her deposition and completed a full day of testimony, attorneys for defendant refused to produce the defendants for depositions duly noticed and refused to produce documents duly noticed, taking the pos-

ition, in obvious defiance of the specific provision of the Federal Rules of Civil Procedure, that no defendant would be produced for depositions until after attorneys for defendants completed any discovery they might wish of plaintiff's case and that, in any event, they would produce relevant documents requested by plaintiff Blowers only at her expense and at the Company's convenience and as the Company might determine what documents it would consider relevant.

10. It is my understanding, from reviewing the motion papers in the Blowers motion of March 22, 1973, that because of the defendants' refusal to produce documents which had been duly demanded by plaintiff Blowers, the defendants have rendered it impossible for plaintiff Blowers to respond to defendants' First Interrogatories. The detailed responses requested of plaintiff Blowers by the defendants in their First Interrogatories to plaintiff Blowers are responses which plaintiff Blowers can make only after the information on race and female job title, salary experience, etc. is made available by the defendants.

11. The Interrogatories which defendant Lawyers Cooperative Publishing Company now serve on me, by and large, are the same Interrogatories defendant Lawyers Cooperative Publishing Company previously served on plaintiff Blowers and call for my access to the same information in the exclusive control of defendant Lawyers Cooperative Publishing Company, which, to date, the Company has refused to supply, notwithstanding the request for that information duly served and the obligation of the defendant pursuant to the Federal Rules of Civil Procedure to produce such information. For example, questions one through nine of defendants' First Interrogatories to Blowers and questions one through nine of defendant's First Interrogatories to me inquire of the same information and re-

late to identical allegations of our respective complaints that Lawyers Cooperative Publishing Company engages in a policy, practice, custom or usage of discriminating against its women employees by reason of sex, race and national origin. As plaintiff Blowers previously pointed out to the Court in her motion of March 22, 1973, neither she nor I can respond to those questions as to the particulars of our claim without the production of the "patterns and practices" evidence of this discrimination which is in the control of defendant Lawyers Cooperative Publishing Company in its Company records.

12. Since I am informed by my attorney that it is impermissible for a defendant to defy the Federal Rules of Civil Procedure and to thereby withhold evidence to substantiate a plaintiff's claim, I am, as an affected class member in Blowers, individually and on behalf of all other persons similarly situated v. Lawyers Cooperative Publishing Company et al, joining in and renewing that motion to compel discovery and to extend the time in which the answers to defendants' Interrogatories may be filed. I also make separate application to the Court in this lawsuit to compel the defendants to attend depositions, produce relevant documents and, as well, request, that the Court extend the time in which I would be expected to file answers to defendants' First Interrogatories until after defendants have appeared at depositions and supplied relevant documents. On my own behalf, I am serving on the defendant notices of depositions and notice to produce documents and, I am requesting that the Court compel the defendant to respond, in accord with the Federal Rules of Civil Procedure.

13. In addition to the foregoing relief, I request that the Court issue a protective order striking Interrogatories 13-19 on the grounds that the information requested is privileged, constitutionally protected from disclosure, work product in connection with the preparation of this lawsuit and/or irrelevant and immaterial to the issues raised by the lawsuit. These questions ask for the identity of all members of plaintiff NOW, the identity of all members of NOW who are employed by the defendant, the identity of all members of plaintiff NOW who have been terminated from defendant's employment, the identity of all members of NOW who have been denied promotion or transfer while in defendant's employment, the identity of all members of NOW who have been deterred from applying for employment, and all legal materials used by plaintiff NOW in its efforts to institute this lawsuit and in the prosecution of this lawsuit.

14. I am informed and believe from talking with my attorney that the membership of the National Organization For Women, a civil rights organization whose primary purpose is to secure the constitutional and statutory rights of females, is privileged and confidential information to the organization. I believe that defendant's request to disclose all the members of NOW, their status of employment with defendant, etc. is violative of the rights of citizens in this country to freedom of association and freedom of assembly, guaranteed by the First Amendment of the Constitution. A person is guaranteed a right under the Constitution to meet with and associate with those individuals and groups that he/she selects without interference by or disclosure to a third party.

15. The merits of plaintiffs' claim in no way depend on whether or not any employee of Lawyers Cooperative Publishing Company is or is not a member of the National Organ-

zation For Women. What is an issue here is whether the defendant, Lawyers Cooperative Publishing Company, has a pattern, practice, custom or usage of employment discrimination against women employees based on sex, race and national origin. Some of the plaintiffs incidentally happen to be members of the National Organization For Women and the Genesee Valley Chapter of the National Organization For Women is a proper party plaintiff in this lawsuit acting on behalf of those member plaintiffs and women in general who are harmed by the discriminatory practices of Lawyers Cooperative Publishing Company. Indeed, as plaintiffs have pointed out in paragraph 4 (d) of the Amended Complaint, part of the basis for the organization's participation in this lawsuit as a plaintiff is because the organization has information that many of the employees of Lawyers Cooperative Publishing Company who suffer discrimination because of sex, race and national origin either fear to identify themselves individually or otherwise file complaints because of possible retaliation by defendant Lawyers Cooperative Company and/or fear that future promotions will be jeopardized by such individual identification.

16. Thus, the information which defendant Lawyers Cooperative Publishing Company requests in Interrogatories 13-17 in regard to the membership of plaintiff Genesee Valley Chapter of the National Organization For Women is either privileged, constitutionally protected from disclosure and/or immaterial and irrelevant to the issues raised in the complaint.

17. Information which defendant Lawyers Cooperative Publishing Company requests in Interrogatories 18 and 19 is, as stated in each Interrogatory, information which the plaintiff and its attorney has assembled in the preparation of this lawsuit. Such work product, I am informed and believe from talking with my attorney, is not subject to disclosure.

For the foregoing reasons, I respectfully request that the Court grant the relief requested in plaintiff Blowers' motion of March 22, 1973 and that the Court additionally issue an order compelling the defendant Lawyers Cooperative Publishing Company to appear for depositions and produce documents, that the Court extend the time in which to respond to defendant's First Interrogatories to such time as the defendant Lawyers Cooperative Publishing Company undertakes its obligations to disclose pursuant to the Federal Rules of Civil Procedure and, that the Court strike defendant's Interrogatories 13-19, on the grounds that the information requested is privileged, constitutionally protected from disclosure, work product exempt from disclosure and/or immaterial and irrelevant to the issues raised in this case.

Patricia Loughney

Patricia Loughney

Sworn to before me this *8th* day
of February, 1974.

Emmelyn Logan Baldwin

EMMELYN LOGAN BALDWIN
JURY PUBLIC, State of N. Carolina Co.
Commission Expires March 22, 1975

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

PATRICIA LOUGHNEY
61 Dewey Avenue
Fairport, New York 14454

GENESEE VALLEY CHAPTER OF THE
NATIONAL ORGANIZATION FOR WOMEN,
359 Parsells Avenue
Rochester, New York 14609

Plaintiffs,

v.

LAWYERS COOPERATIVE PUBLISHING
COMPANY, INC.
One Aqueduct Street
Rochester, New York 14614

Defendant.

AFFIDAVIT IN
SUPPORT OF MOTION

Civil Action
No. 1973-239

STATE OF NEW YORK)
COUNTY OF MONROE) SS:
CITY OF ROCHESTER)

E. Elisabeth Holm, being duly sworn, according
to law, deposes and says:

1. I am the current President of the Genesee
Valley Chapter of the National Organization For Women, one
of the plaintiffs in the above noted lawsuit. This Affidavit
is submitted by me in support of the motion of the plaintiffs
to compel the defendant to appear for depositions and produce
documents, for an order of the Court extending the time for
the plaintiffs to respond to defendant's First Interrogatories
until such time as defendant has appeared for depositions
and produced documents and for a protective order of the Court
striking defendant's Interrogatories 13-19.

2. I have read the Affidavit of plaintiff
Patricia Loughney, sworn to February , 1974 and submitted
herewith. From reading the affidavit of plaintiff Loughney,
the motion papers of Blowers and from conversations with my
attorney, I believe the factual outline stated in plaintiff

Loughney's affidavit to be correct and incorporate those allegations herein.

3. I believe, on the basis of discussions with my attorney, that the defendant Lawyers Cooperative Publishing Company cannot ignore its obligations under the Federal Rules Of Civil Procedure to appear for depositions and to produce relevant documents. Further, I believe that the time in which the plaintiffs should file responses to defendant's First Interrogatories should be extended until the defendant Lawyers Cooperative Publishing Company has appeared for depositions and produced documents which are essential to plaintiffs' answering the Interrogatories. Further, the information which defendant Lawyers Cooperative Publishing Company requests in Interrogatories 13-19 is information that is either privileged, constitutionally protected from disclosure, work product not disclosable and/or immaterial and irrelevant to the issues in this lawsuit. Thus, the Court should issue a protective order striking those Interrogatories.

For the foregoing reasons, I join in the motion of plaintiff Blowers in Blowers, individually and on behalf of all other persons similarly situated v. Lawyers Cooperative Publishing Company et al, dated March 22, 1973 and I request that the Court issue an order compelling the defendants to appear for depositions and produce documents pursuant to notice duly served, that the Court extend the time in which the plaintiffs may file answers to defendant's First Interrogatories and that the Court issue an order striking Interrogatories 13-19.

E. Elisabeth Holm

E. Elisabeth Holm

Sworn to before me this

22nd day of February, 1974.

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Emmanuel H. Holm

EMMANUEL HOLM, Notary Public
Notary Public, State of California
Commission Expires 12/31/75

[Filed 2/11/74]

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

PATRICIA LOUGHNEY
61 Dewey Avenue
Fairport, New York 14454

GENESEE VALLEY CHAPTER OF THE
NATIONAL ORGANIZATION FOR WOMEN,
359 Parcells Avenue
Rochester, New York 14609

Plaintiffs,

v.

LAWYERS COOPERATIVE PUBLISHING
COMPANY, INC.
One Aqueduct Street
Rochester, New York 14614

Defendant.

NOTICE TO PRODUCE
F.R.C.P. 34

Civil Action
No. 1973-233

Pursuant to Rule 34 of the Federal Rules Of Civil Procedure, plaintiffs request that you produce and permit plaintiffs, by their attorney, to inspect and copy, at the offices of their attorney, Emmelyn Logan-Baldwin, 19 Arnold Park, Rochester, New York, from 10:00 A.M. to 12:00 Noon and from 2:00 P.M. to 5:00 P.M. on March 12, 13 and 14, 1974, the following:

1. Entire personnel record of Patricia Loughney.
2. All EEO-1 reports prepared and filed by defendant Lawyers Cooperative Publishing Company.
3. All affirmative action programs prepared by defendant Lawyers Cooperative Publishing Company.
4. The study or studies prepared for defendant Lawyers Cooperative Publishing Company by an independent consulting firm in connection with evaluating the job descriptions, job status, salary, etc. of all male and female employees of defendant Lawyers Cooperative Publishing Company said study or studies having been conducted in the period between December 1971 and to date.

5. All written materials of whatever nature in connection with the Lawyers Cooperative Publishing Company policy on exempt employees.

6. All written materials of Lawyers Cooperative Publishing Company of whatever nature in connection with the Company policy on non-exempt employees.

7. The health record of plaintiff Patricia Loughney maintained by defendant Lawyers Cooperative Publishing Company.

8. Any Lawyers Cooperative Publishing Company written employee rules of whatever nature or description for the last five years.

9. All notes, memoranda or writings of any nature whatsoever outlining the Lawyers Cooperative Publishing Company policy on severance payments and other benefits afforded to Company employees on termination.

10. Forms or any writing of any nature whatsoever used by Lawyers Cooperative Publishing Company personnel in interviewing prospective employees, for the last five years.

11. Interview forms or any writing of any nature whatsoever used by Lawyers Cooperative Publishing Company personnel on the employment interview of plaintiff Patricia Loughney.

12. The form and/or any writing of any nature whatsoever which Lawyers Cooperative Publishing Company forwards to its physician in requesting a report on a prospective employee's health, for the last five years.

13. The document or documents showing the employment agencies used by Lawyers Cooperative Publishing Company in recruiting employees, showing as well, whether certain employees for certain departments are recruited through certain agencies and if so which employees for which departments.

14. Employee requisition forms for all departments of Lawyers Cooperative Publishing Company from January 1965 to January 1973.

15. The document or documents containing the Lawyers Cooperative Publishing Company maternity leave policy for its employees from January 1965 to January 1973.

16. The document or documents of Lawyers Cooperative Publishing Company showing the different departments at Lawyers Cooperative Publishing Company and, for each department, the employees in that department, including date of hire, sex, classification, advancement experience of employee, salary experience of employee and present salary.

17. The document or documents showing the supervisory positions at Lawyers Cooperative Publishing Company and with respect to each position the sex of the person holding the position, salary of the person holding the position, date of assuming the title, classification, salary progression of the employee and employment progression of the employee.

18. The document or documents of Lawyers Cooperative Publishing Company showing the managerial positions of the Company and with respect to those positions, the sex of the person holding the position, the classification of that person, the salary of that person, the salary progression experience of that person, job progression experience of that employee and the present salary of that employee.

19. The document or documents of Lawyers Cooperative Publishing Company showing the employees in the advance reading department, with the names, sex, age, dates of hire, starting salary, salary progression, classification progression and current salary.

20. The document or documents of Lawyers Cooperative Publishing Company showing ³¹⁵the employees in the correspon-

dence department with the names, sex, age, date of hire, starting salary, salary progression, classification progression, and current salary of the employees.

21. The document or documents of Lawyers Cooperative Publishing Company showing the persons employed in the Proof Room, with the names of the employees, the sex of the employees, the date of hire, the job progression experience, the present salary, the salary progression experience and classification of the employee.

22. The document or documents of Lawyers Cooperative Publishing Company showing the individuals employed in the Editorial Indexing Department with indication as to sex, date of hire, present salary, salary progression experience, classification, job progression experience.

23. Job descriptions for persons employed in the Lawyers Cooperative Publishing Company Advance Reading Department from January 1965 to January 1973.

24. The job descriptions for employees in the Lawyers Cooperative Publishing Company Correspondence Department from January 1965 to January 1973.

25. The job descriptions for any positions in the Lawyers Cooperative Publishing Company Proof Room from January 1965 to January 1973.

26. All memoranda or writing of any nature whatsoever describing the classification, labor grades and pay levels for Lawyers Cooperative Publishing Company employees, from January 1965 to January 1973.

27. Any memoranda, description or writing of any nature whatsoever describing Lawyers Cooperative Publishing Company training and/or apprenticeship programs for any job

- 5 -

of whatsoever description at Lawyers Cooperative Publishing Company, including, any training or apprenticeship program made available to the Company by a labor union.

28. All written job descriptions for positions in the Lawyers Cooperative Publishing Company Editorial Indexing Department from January 1965 to January 1973.

29. Applicant register for Lawyers Cooperative Publishing Company from January 1965 to January 1973.

30. Any writing of any nature whatsoever describing any Lawyers Cooperative Publishing Company employee benefit from January 1965 to January 1973.

31. All Lawyers Cooperative Publishing Company news articles, press releases, memoranda or writings of any nature, whatsoever, distributed to Company employees and/or the media or third parties, in regard to plaintiff NOW complaints against Lawyers Cooperative Publishing Company or in regard to any present or former employee complaints against Lawyers Cooperative Publishing Company since December 1971.

32. All writings in connection with one plaintiff National Organization For Women complaint against Lawyers Cooperative Publishing Company filed with the Office of Federal Contracts Compliance and all writings furnished by Lawyers Cooperative Publishing Company in response to those charges.

33. All writings in connection with the plaintiff National Organization For Women complaint against Lawyers Cooperative Publishing Company filed with the United States Department of Labor in connection with an equal pay complaint and all materials of Lawyers Cooperative Publishing Company in response to that complaint.



Emmelyn Logan-Baldwin
Attorney For Plaintiffs
19 Arnold Park
Rochester, New York 14607
716 442-4150

February 8, 1974.

TO: NIXON, HARGRAVE, DEVANS & DOYLE
John B. McCrory, Esquire of counsel
Lincoln First Tower
Rochester, New York 14604
716 545-6000

[Filed 2/11/74]

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

PATRICIA LOUGHNEY
61 Dewey Avenue
Fairport, New York 14454

GENESEE VALLEY CHAPTER OF THE
NATIONAL ORGANIZATION FOR WOMEN,
369 Parsells Avenue
Rochester, New York 14609

Plaintiffs,

v.

LAWYERS COOPERATIVE PUBLISHING
COMPANY, INC.
One Aqueduct Street
Rochester, New York 14614

Defendant.

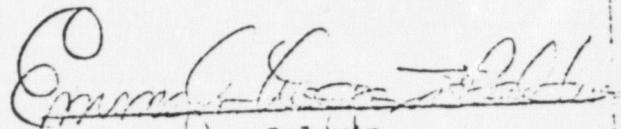
NOTICE OF DEPOSITION

Civil Action
No. 1973-238

PLEASE TAKE NOTICE that the plaintiffs will take the depositions upon oral examination of the agents and/or employees of defendant Lawyers Cooperative Publishing Company, DONALD BENNETT and LEONARD REISER, whose addresses are One Aqueduct Street, Rochester, New York, pursuant to Federal Rules of Civil Procedure, before a Notary Public or some other officer duly authorized to administer oaths on February 19, 20 and 21, 1974 between the hours of 10:00 A.M. and 12:00 Noon and 2:00 P.M. and 5:00 P.M. on each day at 19 Arnold Park, Rochester, New York 14607.

PLEASE TAKE FURTHER NOTICE that the agents and/or employees of defendant Lawyers Cooperative Publishing Company, DONALD BENNETT and LEONARD REISER, are required to produce any and all documentary evidence in their possession relating direct-

ly or indirectly, to the issues raised in plaintiffs' complaint.



Emmelyn Degan-Baldwin
Attorney For Plaintiffs
19 Arnold Park
Rochester, New York 14607

February 8, 1974.

TO: NIXON, HARGRAVE, DEVANS & DOYLE
John B. McGrory, Esquire of counsel
Lincoln First Tower
Rochester, New York 14604
716 546-2000

[Filed 2/19/74]

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

PATRICIA LOUGHNEY and GENESEE VALLEY
CHAPTER OF THE NATIONAL ORGANIZATION
FOR WOMEN,

Plaintiffs,

-vs-

LAWYERS COOPERATIVE PUBLISHING
COMPANY, INC.,

Defendant.

NOTICE OF
MOTION

FRCP 26(c) 37

CIV-1973-238

TO: EMPEL'N LOGAN-BALDWIN, ESQ.
Attorney for Plaintiff
Office and Post Office Address
19 Arnold Park
Rochester, New York 14607
Telephone: (716) 442-4150

PLEASE TAKE NOTICE that defendant will bring a motion, pursuant to FRCP 26(c) for an order setting the time for depositions of defendant's employees, and a motion pursuant to FRCP 37 for an order requiring plaintiffs to answer defendant's first interrogatories, for hearing before this Court at a Motion Term to be held at the Federal Building, 100 State Street, Rochester, New York, on February 25, 1974, at 10:00 A.M., or as soon thereafter as counsel may be heard.

Dated: February 15, 1974

NIXON, HARGRAVE, DEVANS & DOYLE
Attorneys for Defendant
Office and Post Office Address
Lincoln First Tower
Rochester, New York 14603
Telephone: (716) 546-8000

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

PATRICIA LOUGHNEY and GENESEE VALLEY
CHAPTER OF THE NATIONAL ORGANIZATION
FOR WOMEN,

Plaintiffs,

-vs-

LAWYERS COOPERATIVE PUBLISHING
COMPANY, INC.,

Defendant.

MOTION

CIV-1973-238

Defendant moves the Court as follows:

1. To set a reasonable schedule for
depositions of defendant's
employees.
2. To compel plaintiffs to answer
defendant's interrogatories.

Dated: February 16, 1974

/s/ John B. McCrory

JOHN B. MCCRORY, ESQ.

A Member of the Firm

Nixon, Hargrave, Devans & Doyle

Attorneys for Defendant

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Lincoln First Tower

Rochester, New York 14603

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UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NEW YORK

PATRICIA LOUGHNEY and GENESEE VALLEY
CHAPTER OF THE NATIONAL ORGANIZATION
FOR WOMEN,

Plaintiffs,

-vs-

LAWYERS COOPERATIVE PUBLISHING
COMPANY, INC.,

Defendant.

AFFIDAVIT

CIV-1973-238

STATE OF NEW YORK:
COUNTY OF MONROE : SS.
CITY OF ROCHESTER:

JOHN B. McCrory, being duly sworn, deposes and says:

1. I am a member of the firm of Nixon, Hargrave,
Devans & Doyle, attorneys for defendant herein, and am fully
familiar with this action.

2. This action was instituted May 14, 1973.

3. Defendant moved to dismiss the complaint as to
Genesee Valley Chapter of the National Organization for Women
(hereinafter N.O.W.) for lack of standing.

4. Defendant's motion to dismiss was denied, issue
was joined and defendant served its first interrogatories on
January 8, 1974. A copy of said interrogatories is attached
hereto and marked Exhibit "A".

5. On February 8, 1974, plaintiffs herein served
upon defendant a notice of discovery motions, returnable
February 25, 1974 and a notice of deposition for February 19,
20 and 21. (Plaintiffs also served a request for documents,

but defendant need not respond to this request until thirty (30) days after service.)

6. The plaintiffs' motions that are now before this Court refer in part to motions made before this Court in April, 1973 in another action, Blowers, et al. v. Lawyers Cooperative Publishing Company, et al., CIV 1973-47. The plaintiff in Blowers has served a notice of motion in that case returnable before this Court on March 11, 1974. That, in effect, renews the Blowers motions of April, 1973. Since Blowers is a separate action, and since the plaintiff in Blowers has made a motion to this Court renewing the April, 1973 motions, there is no need to renew the April, 1973 motions by way of a motion in this case. Therefore, defendant does not address those motions herein, but will address any relief sought by plaintiff in Blowers as a part of the motions in Blowers, not as a part of motions in Loughney.

7. Speaking only to the motions which are properly before this Court in Loughney, defendant submits the following:

8. Plaintiffs' motions seek a protective order so that they may avoid or delay answering defendant's interrogatories on two grounds: First, that they cannot answer defendant's interrogatories because they have no information; and second, because some of defendant's interrogatories seek privileged or confidential information.

9. Defendant's first interrogatories (Exhibit "A") ask whether either plaintiff N.O.W. or plaintiff Loughney, or both, knows, has knowledge or any reason to believe that particular acts of discrimination have ever occurred. Some of defendant's interrogatories, e.g., interrogatories numbered

5, 6, 7, 10, 11, 12 and 20, ask questions that concern matters of which plaintiff Loughney must have knowledge if the complaint and various affidavits she has submitted to this Court heretofore have any substance.

10. Plaintiffs make no objection to the bulk of defendant's interrogatories (they do object to interrogatories 13-19). Nonetheless, plaintiffs make no effort to answer defendant's interrogatories. Plaintiff Loughney states, under oath, in paragraph 11 at page 6 of her affidavit to this Court dated February 8, 1974:

"As plaintiff Blowers (a plaintiff in another action) pointed out to the Court... neither she nor I can respond to those questions as to the particular of our claim without the product of the 'patterns and practices' evidence of this discrimination which is in the control of defendant Lawyers Cooperative Publishing Company in its Company records."

In short, plaintiffs make no objection to defendant's interrogatories, but simply say that they cannot "respond" to them.

11. Defendant's interrogatories do not require "patterns or practices" evidence. They do require specific facts and plaintiffs should be ordered to produce all the facts they have, if any.

12. Plaintiffs now say they cannot answer even basic interrogatories without reference to company records. By

contrast, heretofore, plaintiffs have sworn, in affidavits submitted to this Court, that they were full of knowledge of the discriminatory practices they accuse defendant of committing. For example, plaintiff Loughney, in paragraph 15 of the same affidavit (her affidavit of February 8, 1974) in which she professes inability to answer defendant's inquiries about her complaint, states, under oath:

"...the organization (plaintiff N.O.W.) has information that many of the employees of Lawyers Cooperative Publishing Company who suffer discrimination because of sex, race and national origin either fear to identify themselves individually or otherwise file complaints because of possible retaliation by defendant Lawyers Cooperative Publishing Company and/or fear that future promotions will be jeopardized by such individual identification." (emphasis added)

13. Defendant's interrogatories follow plaintiffs' complaint closely. Plaintiffs have alleged, and plaintiff Loughney swears, that plaintiffs have information about acts of discrimination allegedly practiced by defendant. Defendant asked for particulars of that information, but plaintiffs now say they cannot answer defendant.

14. Moreover, Sheila Molnar, the "Vice Chairperson" of plaintiff N.O.W., on July 5, 1973 submitted an affidavit to this Court in support of plaintiff N.O.W.'s position that

it was a proper party plaintiff in this lawsuit. Ms. Molnar set forth in some detail particulars of plaintiff N.O.W.'s "investigation" of defendant. (Molnar affidavit, July 5, 1973, paragraphs 5-7) In that affidavit Ms. Molnar swore, inter alia, that plaintiff N.O.W. received complaints of discrimination by both "chapter members and non-members", (Molnar affidavit, July 5, 1973, paragraph 6), that the facts of these complaints were so "flagrant" that the "national office" of the National Organization for Women "concluded that the Loughney and companion cases...constitute[d] a situation of national concern." (Molnar affidavit, July 5, 1973, paragraph 8). In spite of these sworn statements, now neither plaintiff can even begin to answer defendant's interrogatories.

15. Similarly, the plaintiff's attorney, in her affidavit to this Court, sworn to July 6, 1973, stated in paragraph 3 of that affidavit:

"Other employees of defendant Lawyers Cooperative Publishing Company are members of the Genesee Valley Chapter of the National Organization for Women. Other members of the Genesee Valley Chapter of the National Organization for Women are past employees of defendant Lawyers Cooperative Publishing Company and have suffered from the class-wide, illegal, discriminatory policies, practices, customs and usages of defendant Lawyers Cooperative Publishing Company."

-6-

However, when asked by defendant for particulars, plaintiff cannot even begin to answer defendant's interrogatories addressed to these types of statements.

16. Plaintiffs' attorney also stated, in paragraph 2 of her amendment to the complaint in this action, the following:

"(c) In conjunction with the efforts of the organization to secure the equal protection of the laws to women, Negroes and other deprived groups, the Genesee Valley Chapter of the National Organization for Women as well as the national office of the National Organization for Women maintain committees to review requests for information on legal rights of women and information on how the National Organization for Women can assist in securing those rights to women, Negroes and other deprived groups. This assistance is available both to members and non-members of the National Organization for Women.

(d) Plaintiff Genesee Valley Chapter of the National Organization for Women have and/or have had members who were denied entry level positions and/or promotions, were discharged, or not recruited for available positions and/or were otherwise discriminated against in employment opportunities by defendant Lawyers

Cooperative Publishing Company solely or primarily because of race, national origin and/or sex. Upon information and belief, many of said persons discriminated against because of sex, race and/or national origin either fear to identify themselves individually or otherwise file complaints because of possible retaliation by defendant Lawyers Cooperative Publishing Company and/or fear that future promotions would be jeopardized by such individual identification." (emphasis added)

17. Defendant submits that plaintiffs either are attempting to defeat defendant's right to discovery by simply refusing to answer, or they have overstated the extent of their knowledge about alleged acts of discrimination in their affidavits to this Court.

18. Plaintiffs assert in their pleadings that defendant has committed actions of discrimination. Plaintiffs support their pleadings and their standing to sue with affidavits, that say they know about defendant's discriminatory acts and that they have information about discriminatory acts. However, when defendant breaks the allegations of the complaint down and asks, point by point, for even basic information about each point, plaintiffs suddenly have no knowledge and have no information. In fact, plaintiff Loughney says that she must have access to defendant's records to determine if she was ever pregnant.

19. Defendant submits that it has a right, and asserts the Court's right, to an explanation for the obvious inconsistency in plaintiffs' ever shifting positions.

PLAINTIFFS' APPLICATION FOR
PERMISSION NOT TO ANSWER CERTAIN OF
DEFENDANT'S INTERROGATORIES

20. Plaintiffs ask that they not be required to answer defendant's interrogatories numbered 13-19.

21. Interrogatories 13-17 ask, as follows:

- "13. Identify all current members of plaintiff N.O.W.
- 14. Identify the members of the plaintiff N.O.W. who are employed by defendant.
- 15. Identify all members of plaintiff N.O.W. who have been terminated from defendant's employment.
- 16. Identify all members of plaintiff N.O.W. who have been denied promotion or transfer while in Defendant's employ.
- 17. Identify all members of plaintiff N.O.W. who have been deterred from applying for employment with Defendant."

22. Heretofore, defendant sought to dismiss N.O.W. for lack of standing to sue. Plaintiff N.O.W. successfully resisted defendant's motion, on the ground that its members suffered injury by defendant's employment practices.

23. For purposes of defendant's motion to dismiss N.O.W. as a plaintiff, the allegation that members have suffered injury was taken to be true.

24. However, it is a matter of proof at trial as to whether the injury to N.O.W., because of injury to its members, is sufficient to withstand defendant's motion to dismiss for

lack of standing as this action progresses.

25. As the amicus curiae in this action, the United States Equal Employment Opportunity Commission, stated in its brief to this Court in support of N.O.W.'s standing to be a plaintiff in this lawsuit, dated August 8, 1973:

"The Commission submits that the SCRAP (U.S. v. SCRAP ___ U.S. ___, 93 S.Ct. 2405, 37 L.Ed 2d 254) decision reinforces its position that plaintiff N.O.W. is properly before this Court."

"Plaintiff N.O.W. has alleged tangible economic and emotional harm to its members as a result of the discriminatory practices of the defendant, harm which is fully 'capable of proof at trial.'"

Accordingly, the motion to dismiss should be denied." (emphasis added)

26. There is no question that injury to the members of N.O.W. is an issue for trial, and as such, defendant has a right to know who the members of N.O.W. are, so that defendant has the opportunity to determine who and how many members of N.O.W. presently work for defendant; who and how many members of N.O.W. have worked for defendant; who and how many members of N.O.W. have applied for work for defendant, so that it is in a position to ascertain the extent of the injury it has allegedly inflicted upon N.O.W. and its members.

27. Further, plaintiffs and their attorney swear in their affidavits to this Court and their attorney asserts, over her signature, in plaintiffs' pleadings, the following:

e.g., Mrs. Logan-Baldwin, swore to the following facts, and did not assert these facts were to her knowledge upon information and belief:

"...Plaintiff Loughney who alleges particular illegal, discriminatory practices of the defendant not only affecting her employment situation but those of all females of defendant Lawyers Cooperative Publishing Company on the basis of sex, race and national origin, is a member of the Genesee Valley Chapter of the National Organization for Women. Other employees of defendant Lawyers Cooperative Publishing Company are members of the Genesee Valley Chapter of the National Organization for Women. Other members of the Genesee Valley Chapter of the National Organization for Women are past employees of defendant Lawyers Cooperative Publishing Company and have suffered from the class-wide, illegal, discriminatory policies, practices, customs and usages of defendant Lawyers Cooperative Publishing Company..."

(Affidavit of Emmelyn Logan-Baldwin,
paragraph 3, July 6, 1973)

Mrs. Logan-Baldwin made the following assertion in her amendment to plaintiffs' complaint of July 6, 1973 at paragraph 2(d):

"Plaintiff Genesee Valley Chapter of the National Organization for Women have and/or have had members who were denied entry level positions and/or promotions, were discharged, or not recruited for available positions and/or were otherwise discriminated against in employment opportunities by defendant Lawyers Cooperative Publishing Company solely or primarily because of race, national origin and/or sex."

Plaintiff Loughney swears, in her affidavit in support of N.O.W.'s motion to be a party plaintiff, dated July 5, 1973 at paragraph 8:

"I am a member of the Genesee Valley Chapter of the National Organization for Women. I am informed and believe that other female employees of the defendant are members of the Genesee Valley Chapter of the National Organization for Women. Other members of the Genesee Valley Chapter of the National Organization for Women, on my information and belief, have been employees of defendant, Lawyers Cooperative Publishing Company, and

victims in the past of the defendant's company-wide discriminatory practices."

28. Plaintiffs have injected into this lawsuit the issue of the harm that N.O.W. and its members have suffered. Defendant has the right to discovery into these issues.

29. Defendant also directs the Court's attention to plaintiffs' sudden concern for rights of privacy, a concern that apparently accrues only to them, but not to defendant or its employees.

30. As to the remaining interrogatories that plaintiffs object to, there is no question that attorneys' fees are an issue in this case, since plaintiffs have sought attorneys' fees in their prayer for relief. For this reason, defendant's interrogatories numbered 18 and 19 are entirely proper. Interrogatories 18 and 19 ask:

"18. Identify all data as defined relating to plaintiff N.O.W.'s efforts to institute this action.

19. Identify all legal materials prepared by plaintiff N.O.W. and its parent and affiliated organizations that have been or are being used in prosecuting this action."

31. Defendant points out that all defendant requests is a list of materials, not their contents. Defendant has a right to know how much of plaintiffs' attorney's work is prepared by her and how much is "canned" or prepared from forms provided by another group, in order that it may have a continuing indicator of the volume of plaintiffs' attorneys' fees.

PLAINTIFFS' NOTICE OF
DEPOSITION

32. FRCP 30(b)(1) states, in part:

"(1) A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action..."

FRCP 30(b)(1), together with FRCP 26, emphasize that parties should not use discovery devices purely for harrassment. However, by notice served February 8, 1974 at 5:00 P.M., plaintiffs sought to depose two of defendant's employees on three successive days, February 19, 20 and 21.

33. Plaintiffs' counsel was well aware, long in advance of February 8, that defendant's counsel would not be in Rochester the week of February 18, but would be taking his son, who only has a limited vacation from school, on a vacation trip. In view of the time this action has been pending and the fact that it obviously is not yet close to trial, plaintiffs' scheduling of depositions the week of February 18 was not made with a view to expediting discovery, but was only an attempt to force defendant to reschedule the depositions.

34. Defendant desires that further such harassment be prevented and desires that discovery proceed.

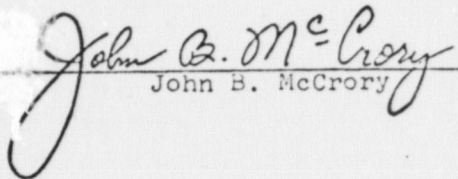
35. Therefore, defendant requests that the Court order depositions to proceed on any of the following dates:

April 1, 2, 9, 10, 11, 22, 23, 24, 25, 26

May 8, 9, 10, 13, 14, 15, 16, 21, 22, 23

36. Defendant gives plaintiffs the "first choice" for discovery on these dates, and requests that the Court reserves for defendant the right to notice depositions of plaintiffs or their witnesses on days not chosen by plaintiffs.

DATED: February 15, 1974


John B. McCrory

Sworn to before me this

15th day of February, 1974.

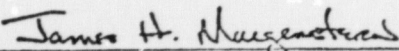

JAMES H. MORGENSTERN
Notary Public in the State of New York
MONROE COUNTY, N. Y.
Commission Expires March 30, 1975

Exhibit A is reproduced supra at p. 288

[Filed 3/11/74]

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

PATRICIA LOUGHNEY and GENESEE VALLEY
CHAPTER OF THE NATIONAL ORGANIZATION
FOR WOMEN,

Plaintiffs,

-vs-

THE LAWYERS COOPERATIVE PUBLISHING
COMPANY, INC.,

Defendant.

RESPONSE TO NOTICE
FOR PRODUCTION

FRCP 34
CIV-1973-238

Defendant, for its response to plaintiffs' notice to produce, dated February 8, 1974, submits the following (defendant's responses are numbered in accordance with plaintiffs' requests):

(1) Inspection and copying will be permitted.

(2) Defendant objects to inspection of these documents since the request is not limited to time; the request is for material that is confidential under federal law; the request is for material prepared in anticipation of litigation, the request is not relevant to this action; any material which might be obtained by inspection may be obtained by means other than inspecting documents which are confidential or prepared for litigation; plaintiffs should be required to make the showing required by FRCP 26 (b) (3).

(3) Defendant objects to inspection of these documents since the request is not limited to time; the request is for material that is confidential under federal law; the request is for material prepared in anticipation of litigation, the request is not relevant to this action; any material which might be obtained by inspection may be obtained by means other than inspecting documents which are confidential or prepared for litigation; plaintiffs should be required to make the showing required by FRCP 26 (b) (3).

(4) There is no document which comprises the "study or studies" referred to by plaintiff in request No. 4. Defendant retained an independent consulting firm to undertake a general survey of defendant's job and compensation system. The independent consultant did not prepare a written study as a result of its survey. Defendant will rely upon the testimony of the consulting firm, if necessary, at trial of this and related actions. Therefore, defendant cannot respond to this request and further invoke the requirements of FRCP 26 (b) (4), if plaintiffs desire to discover the facts and opinions of said expert witness(es).

(5) Defendant has no documents which meet the description set forth by plaintiff in request No. 5. Defendant's documents generally are not segregated according to exempt and non-exempt employees. These documents will be available for inspection and copying.

(6) As noted above, defendant can only respond to request numbers 5 and 6 in combination.

(7) Any material relating to this subject is in plaintiff Loughney's personnel file.

(8) Defendant objects to this request since it is incomprehensible. Defendant suggests that plaintiffs make a more specific request.

(9) Defendant has no such documents.

(10) Inspection and copying will be permitted.

(11) Any material relating to this subject is in plaintiff Loughney's personnel file.

(12) Inspection and copying will be permitted.

(13) Inspection and copying will be permitted.

(14) Defendant will make available requisition forms for the Indexing Department only. Defendant objects to producing requisition forms for any other department, since defendant knows of no plaintiff in this action who has sought to work in any department other than the Indexing Department.

(15) Inspection and copying will be permitted. This material will be reflected in material provided in Numbers 5 and 6

(16) Defendant does not acknowledge that any such document exists, but objects to production of any information for any department except the Indexing Department, since defendant knows of no plaintiff in this law suit who has worked, is working or seeks to work in a department other than the Indexing Department.

(17) Defendant does not acknowledge that any such document exists, but objects to production of any information for any department except the Indexing Department, since defendant knows of no plaintiff in this law suit who has worked, is working or seeks to work in a department other than the Indexing Department.

(18) See response No. 16.

(19) See response No. 16.

(20) See response No. 16.

(21) See response No. 16.

(22) Inspection and copying will be permitted.

(23) See response No. 16.

(24) See response No. 16.

(25) See response No. 16.

(26) Defendant objects to this request, since it is incomprehensible. Defendant suggests that plaintiffs' attempt to making a more specific request.

(27) Defendant objects to this request since it is incomprehensible. Defendant requests that plaintiff make a more specific request.

(28) Defendant will make available all such documents.

(29) Defendant objects to this request since it is not relevant to this action nor can it be calculated to obtain discovery of any evidence which might be relevant to this law suit.

(30) Defendant objects to this request since it is incomprehensible. Defendant requests that plaintiff make a more specific request.

(31) Defendant will make available all such documents.

(32) Plaintiff will make available all such documents, with the exception of any such documents which are privileged according to the attorney-client privilege on which are the work product of defendant's attorneys.

(33) Defendant will make available all such documents with the exception of any documents which are privileged according to the attorney-client privilege or which are the work product of defendant's attorneys.

Defendant objects to making these documents available at the time and location specified by plaintiff. However, defendant will make such documents available on March 28, and April 1 and 2, 1974, at the time and place specified by plaintiffs.

Dated: March 11, 1974

/s/ John B. McCrory

John B. McCrory
Member of the Firm
Nixon, Hargrave, Devans & Doyle
Attorneys for Defendant
Lincoln First Tower
Rochester, New York 14603

TO: Emmelyn Logan-Baldwin, Esq.
19 Arnold Park
Rochester, New York 14607

[Filed 10/29/74]

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

PATRICIA LOUGHEEY and GENESEE VALLEY
CHAPTER OF THE NATIONAL ORGANIZATION
FOR WOMEN,

Plaintiffs

- VS -

LAWYERS COOPERATIVE PUBLISHING COMPANY,
INC.,

Defendant

Emelyn Logan-Baldwin
510 Powers Building
Rochester, N.Y. 14614
Attorney for plaintiffs

Nixon, Hargrave, Devans & Doyle
Lincoln First Tower
Rochester, N.Y. 14603
Attorneys for defendant

Defendant served its first interrogatories on January 8, 1974. On February 8, 1974 plaintiffs served notice of discovery motions returnable February 25, 1974 and a notice to take deposition of defendant's employees on February 19, 20 and 21, 1974.

On February 11, 1974 plaintiffs filed a notice of motion and affidavits returnable February 25, 1974 for an order compelling the defendant's employees to appear for depositions and to produce documents and for an order

granting plaintiffs an extension of time in which to answer defendant's first interrogatories until after the defendant's employees had appeared for depositions and had produced documents requested, and for a protective order striking certain of the defendant's first interrogatories.

By notice of motion and affidavit filed February 19, 1974, returnable February 25, 1974, the defendant moved for an order setting the time for taking depositions of defendant's employees, and a motion for an order requiring plaintiffs to answer defendant's first interrogatories.

The motions were finally submitted for decision on written briefs on April 25, 1974.

ORDERED that the plaintiffs answer defendant's first interrogatories before the depositions of defendant's employees and before the production of documents requested by the plaintiffs. Plaintiffs are required to answer the interrogatories to the best of their ability and, if they claim lack of information sufficient to answer any particular interrogatory, their answers should so state. The plaintiffs shall have up to and including December 2, 1974 to answer defendant's first interrogatories. When the plaintiffs have answered defendant's first interrogatories, this court will fix the time for depositions of defendant's

employees. The plaintiffs shall disclose the identity of all members of the plaintiff N.O.W. who are employed by the defendant, the identity of all members of N.O.W. who have been terminated from defendant's employment and the identity of all N.O.W. members who have been denied promotion or transferred while in defendant's employment, and the identity of all members of N.O.W. who have been deterred from applying for employment with the defendant. The plaintiffs are not required to produce all data related to N.O.W.'s efforts to begin this suit and all legal materials that have been or are being used by plaintiff N.O.W. and its parent and affiliated organizations. The defendant will be required to produce at the deposition of defendant's employees the defendant's Affirmative Action Programs. When so produced at the depositions for examination at the hearing on the depositions, the Affirmative Action Programs shall either be retained by the defendant or, if the plaintiffs so choose, shall be turned over to the undersigned to be kept in confidential custody at the chambers of the undersigned, where they shall be available for examination by plaintiffs' attorney at such chambers.

Harold P. Burke

HAROLD P. BURKE
United States District Judge

October 29, 1974.

